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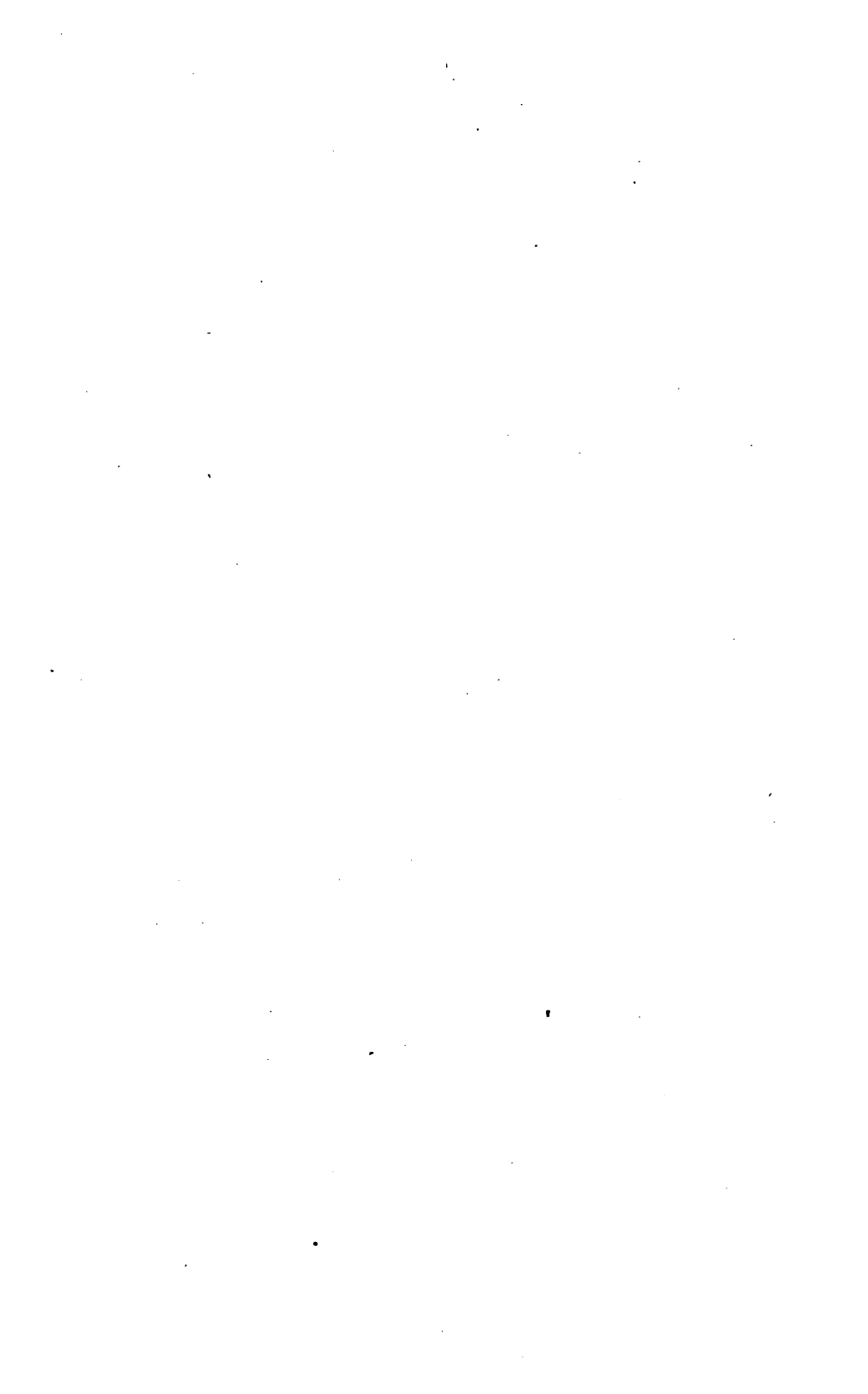
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THE CUSTOMS ADMINISTRATIVE LAWS.

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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON FINANCE

OF THE

UNITED STATES SENATE

IN RELATION TO

THE CUSTOMS ADMINISTRATIVE LAWS.

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# THE CUSTOMS ADMINISTRATIVE LAWS.

## HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON FINANCE OF THE UNITED STATES SENATE IN RELATION TO THE CUSTOMS ADMINISTRATIVE LAWS.

CUSTOM-HOUSE,  
NEW YORK CITY, N. Y., November 15, 1898.

The subcommittee met at 11 o'clock a. m.

Present: Senators Platt, of Connecticut, and Jones, of Arkansas.

Senator PLATT, of Connecticut. The subcommittee is here to pursue an inquiry under authority of a resolution of the United States Senate adopted July 7, 1898, which is as follows:

*“Resolved, That the Committee on Finance be, and they are hereby, authorized and directed, by subcommittee or otherwise, to make an investigation of internal-revenue and customs matters and to report from time to time to the Senate the result thereof; and for this purpose they are authorized to sit, by subcommittee or otherwise, during the recess or sessions of the Senate, at such times and places as they may deem advisable, to send for persons and papers, to administer oaths, and to employ a stenographer and such clerical and other assistance as may be necessary, the expense of such investigation to be paid from the contingent fund of the Senate.”*

We will embody as a part of the record the customs administrative act approved June 10, 1890, showing the amendments thereto made by the act “to provide for the Government and to encourage the industries of the United States,” approved July 24, 1897.

The customs administrative act approved June 10, 1890, as amended by the act of July 24, 1897, is as follows:

[PUBLIC—No. 145.]

**AN ACT to simplify the laws in relation to the collection of the revenues.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all merchandise imported into the United States shall, for the purpose of this act, be deemed and held to be the property of the person to whom the merchandise may be consigned; but the holder of any bill of lading consigned to order and indorsed by the consignor shall be deemed the consignee thereof; and in case of the abandonment of any merchandise to the underwriters the latter may be recognized as the consignee.*

SEC. 2. That all invoices of imported merchandise shall be made out in the currency of the place or country from whence the importations shall be made or if purchased in the currency actually paid therefor, shall contain a correct description of such merchandise, and shall be made in triplicate or in quadruplicate in case of merchandise intended for immediate transportation without appraisement, and signed by the person owning or shipping the same, if the merchandise has been actually purchased, or by the manufacturer or owner thereof, if the same has been procured otherwise than by purchase, or by the duly authorized agent of such purchaser, manufacturer, or owner.

SEC. 3. That all such invoices shall, at or before the shipment of the merchandise, be produced to the consul, vice-consul, or commercial agent of the United States of the consular district in which the merchandise was manufactured or purchased as the case may be, for export to the United States, and shall have indorsed thereon, when so produced, a declaration signed by the purchaser, manufacturer, owner, or agent, setting forth that the invoice is in all respects correct and true, and was made at the place from which the merchandise is to be exported to the United States; that it contains, if the merchandise was obtained by purchase, a true and full statement of the time when, the place where, the person from whom the same was purchased, and the actual cost thereof and of all charges thereon, as provided by this act; and that no discounts, bounties, or drawbacks are contained in the invoice but such as have been actually allowed thereon; and when obtained in any other manner than by purchase, the actual market value or wholesale price thereof at the time of exportation to the United States in the principal markets of the country from whence exported; that such actual market value is the price at which the merchandise described in the invoice is freely offered for sale to all purchasers in said markets, and that it is the price which the manufacturer or owner making the declaration would have received, and was willing to receive, for such merchandise sold in the ordinary course of trade, in the usual wholesale quantities, and that it includes all charges thereon as provided by this act; and the actual quantity thereof; and that no different invoice of the merchandise mentioned in the invoice so produced has been or will be furnished to anyone. If the merchandise was actually purchased, the declaration shall also contain a statement that the currency in which such invoice is made out is that which was actually paid for the merchandise by the purchaser.

SEC. 4. That, except in case of personal effects accompanying the passenger, no importation of any merchandise exceeding one hundred dollars in dutiable value shall be admitted to entry without the production of a duly certified invoice thereof as required by law, or of an affidavit made by the owner, importer, or consignee, before the collector or his deputy, showing why it is impracticable to produce such invoice; and no entry shall be made in the absence of a certified invoice, upon affidavit as aforesaid, unless such affidavit be accompanied by a statement in the form of an invoice, or otherwise, showing the actual cost of such merchandise, if purchased, or if obtained otherwise than by purchase, the actual market value or wholesale price thereof at the time of exportation to the United States, in the principal markets of the country from which the same has been imported; which statement shall be verified by the oath of the owner, importer, consignee, or agent desiring to make entry of the merchandise, to be administered by the collector or his deputy, and it shall be lawful for

the collector or his deputy to examine the deponent under oath touching the sources of his knowledge, information, or belief in the premises; and to require him to produce any letter, paper, or statement of account in his possession, or under his control, which may assist the officers of customs in ascertaining the actual value of the importation or any part thereof; and in default of such production when so requested, such owner, importer, consignee, or agent shall be thereafter debarred from producing any such letter, paper, or statement for the purpose of avoiding any additional duty, penalty, or forfeiture incurred under this act, unless he shall show to the satisfaction of the court or the officers of the customs, as the case may be, that it was not in his power to produce the same when so demanded; and no merchandise shall be admitted to entry under the provisions of this section unless the collector shall be satisfied that the failure to produce a duly certified invoice is due to causes beyond the control of the owner, consignee, or agent thereof: *Provided*, That the Secretary of the Treasury may make regulations by which books, magazines, and other periodicals published and imported in successive parts, numbers, or volumes, and entitled to be imported free of duty, shall require but one declaration for the entire series. And when entry of merchandise exceeding one hundred dollars in value is made by a statement in the form of an invoice the collector shall require a bond for the production of a duly certified invoice.

SEC. 5. That whenever merchandise imported into the United States is entered by invoice, one of the following declarations, according to the nature of the case, shall be filed with the collector of the port, at the time of entry by the owner, importer, consignee, or agent; which declaration so filed shall be duly signed by the owner, importer, consignee, or agent before the collector, or before a notary public or other officer duly authorized by law to administer oaths and take acknowledgments, who may be designated by the Secretary of the Treasury to receive such declarations and to certify to the identity of the persons making them, under regulations to be prescribed by the Secretary of the Treasury; and every officer so designated shall file with the collector of the port a copy of his official signature and seal: *Provided*, That if any of the invoices or bills of lading of any merchandise imported in any one vessel, which should otherwise be embraced in said entry, have not been received at the date of the entry, the declaration may state the fact, and thereupon such merchandise of which the invoices or bills of lading are not produced shall not be included in such entry, but may be entered subsequently.

#### DECLARATION OF CONSIGNEE, IMPORTER, OR AGENT.

I, \_\_\_\_\_, do solemnly and truly declare that I am the consignee [importer or agent] of the merchandise described in the annexed entry and invoice; that the invoice and bill of lading now presented by me to the collector of \_\_\_\_\_ are the true and only invoice and bill of lading by me received of all the goods, wares, and merchandise imported in the \_\_\_\_\_ whereof \_\_\_\_\_ is master, from \_\_\_\_\_, for account of any person whomsoever for whom I am authorized to enter the same; that the said invoice and bill of lading are in the state in which they were actually received by me, and that I do not know or believe in the existence of any other invoice or bill of lading of the said goods, wares, and merchandise; that the entry now

delivered to the collector contains a just and true account of the said goods, wares, and merchandise, according to the said invoice and bill of lading; that nothing has been, on my part, nor to my knowledge on the part of any other person, concealed or suppressed, whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; that the said invoice and the declaration therein are in all respects true, and were made by the person by whom the same purports to have been made; and that if at any time hereafter I discover any error in the said invoice, or in the account now rendered of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district. And I do further solemnly and truly declare that to the best of my knowledge and belief [insert the name and residence of the owner or owners] is [or are] the owner (or owners) of the goods, wares, and merchandise mentioned in the annexed entry; that the invoice now produced by me exhibits the actual cost (if purchased) or the actual market value or wholesale price (if otherwise obtained) at the time of exportation to the United States in the principal markets of the country from whence imported of the said goods, wares, and merchandise, and includes and specifies the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs, charges, and expenses incident to placing said goods, wares, and merchandise in condition, packed ready for shipment to the United States, and no other or different discount, bounty, or drawback but such as has been actually allowed on the same.

DECLARATION OF OWNER IN CASES WHERE MERCHANDISE HAS BEEN ACTUALLY PURCHASED.

I, ———, do solemnly and truly declare that I am the owner of the merchandise described in the annexed entry and invoice; that the entry now delivered by me to the collector of ——— contains a just and true account of all the goods, wares, and merchandise imported by or consigned to me, in the ——— whereof ——— is master, from ———; that the invoice and entry which I now produce contain a just and faithful account of the actual cost of the said goods, wares, and merchandise and include and specifies the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs, charges, and expenses incident to placing said goods, wares, and merchandise in condition, packed ready for shipment to the United States, and no other discount, drawback, or bounty but such as has been actually allowed on the same; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me, and that they are in the state in which I actually received them. And I further solemnly and truly declare that I have not in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; that to the best of my knowledge and belief the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purports to have been made; and that if at any time hereafter I discover any error in the said invoice or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

**DECLARATION OF MANUFACTURER OR OWNER IN CASES WHERE MERCHANDISE HAS NOT BEEN ACTUALLY PURCHASED.**

I, \_\_\_\_\_, do solemnly and truly declare that I am the owner (or manufacturer) of the merchandise described in the annexed entry and invoice; that the entry now delivered by me to the collector of \_\_\_\_\_ contains a just and true account of all the goods, wares, and merchandise imported by or consigned to me in the \_\_\_\_\_, whereof \_\_\_\_\_ is master, from \_\_\_\_\_; that the said goods, wares, and merchandise were not actually bought by me, or by my agent, in the ordinary mode of bargain and sale, but that nevertheless the invoice which I now produce contains a just and faithful valuation of the same, at their actual market value or wholesale price, at the time of exportation to the United States, in the principal markets of the country from whence imported for my account (or for account of myself or partners); that such actual market value is the price at which the merchandise described in the invoice is freely offered for sale to all purchasers in said markets, and is the price which I would have received and was willing to receive for such merchandise sold in the ordinary course of trade in the usual wholesale quantities; that the said invoice contains also a just and faithful account of all the cost of finishing said goods, wares, and merchandise to their present condition, and includes and specifies the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs and charges incident to placing said goods, wares, and merchandise in condition packed ready for shipment to the United States, and no other discount, drawback, or bounty but such as has been actually allowed on the said goods, wares, and merchandise; that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purports to have been made; that I do not know nor believe in the existence of any invoice or bill of lading other than those now produced by me, and that they are in the state in which I actually received them. And I do further solemnly and truly declare that I have not in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; and that if at any time hereafter I discover any error in the said invoice, or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district.

SEC. 6. That any person who shall knowingly make any false statement in the declarations provided for in the preceding section, or shall aid or procure the making of any such false statement as to any matter material thereto, shall, on conviction thereof, be punished by a fine not exceeding five thousand dollars, or by imprisonment at hard labor not more than two years, or both, in the discretion of the court: *Provided*, That nothing in this section shall be construed to relieve imported merchandise from forfeiture by reason of such false statement or for any cause elsewhere provided by law.

SEC. 7. That the owner, consignee, or agent of any imported merchandise which has been actually purchased may, at the time when he shall make and verify his written entry of such merchandise, but not afterwards, make such addition in the entry to the cost or value given in the invoice, or pro forma invoice, or statement in form of an invoice, which he shall produce with his entry, as in his opinion may raise the same to the actual market value or wholesale price of such merchan-

dise at the time of exportation to the United States, in the principal markets of the country from which the same has been imported; but no such addition shall be made upon entry to the invoice value of any imported merchandise obtained otherwise than by actual purchase; and the collector within whose district any merchandise may be imported or entered, whether the same has been actually purchased or procured otherwise than by purchase, shall cause the actual market value or wholesale price of such merchandise to be appraised; and if the appraised value of any article of imported merchandise shall exceed by more than ten per centum the value declared in the entry there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, a further sum equal to two per centum of the total appraised value for each one per centum that such appraised value exceeds the value declared in the entry; and the additional duties shall only apply to the particular article or articles in each invoice which are undervalued; and if such appraised value shall exceed the value declared in the entry more than forty per centum, such entry may be held to be presumptively fraudulent, and the collector of customs may seize such merchandise and proceed as in cases of forfeiture for violations of the customs laws; and in any legal proceedings which may result from such seizure the fact of such undervaluation shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he shall rebut said presumption of fraudulent intent by sufficient evidence: *Provided*, That the forfeitures provided for in this section shall apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles in each invoice which are undervalued: *And provided further*, That all additional duties, penalties, or forfeitures, applicable to merchandise entered by a duly certified invoice shall be alike applicable to goods entered by a pro forma invoice or statement in form of an invoice. The duty shall not, however, be assessed upon an amount less than the invoice or entered value.

The "act to provide revenue for the Government and to encourage the industries of the United States," approved July 24, 1897, amended section 7 so as to read as follows:

"SEC. 7. That the owner, consignee, or agent of any imported merchandise which has been actually purchased may, at the time when he shall make and verify his written entry of such merchandise, but not afterwards, make such addition in the entry to the cost or value given in the invoice or pro forma invoice or statement in form of an invoice, which he shall produce with his entry, as in his opinion may raise the same to the actual market value or wholesale price of such merchandise at the time of exportation to the United States, in the principal markets of the country from which the same has been imported; but no such addition shall be made upon entry to the invoice value of any imported merchandise obtained otherwise than by actual purchase; and the collector within whose district any merchandise may be imported or entered, whether the same has been actually purchased or procured otherwise than by purchase, shall cause the actual market value or wholesale price of such merchandise to be appraised; and if the appraised value of any article of imported merchandise subject to an ad valorem duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the value declared in the entry, there shall be levied, collected, and paid, in addition to the

duties imposed by law on such merchandise, an additional duty of one per centum of the total appraised value thereof for each one per centum that such appraised value exceeds the value declared in the entry, but the additional duties shall only apply to the particular article or articles in each invoice that are so undervalued, and shall be limited to fifty per centum of the appraised value of such article or articles. Such additional duties shall not be construed to be penal, and shall not be remitted, nor payment thereof in any way avoided, except in cases arising from a manifest clerical error, nor shall they be refunded in case of exportation of the merchandise, or on any other account, nor shall they be subject to the benefit of drawback: *Provided*, That if the appraised value of any merchandise shall exceed the value declared in the entry by more than fifty per centum, except when arising from a manifest clerical error, such entry shall be held to be presumptively fraudulent, and the collector of customs shall seize such merchandise and proceed as in case of forfeiture for violation of the customs laws, and in any legal proceeding that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he shall rebut such presumption of fraudulent intent by sufficient evidence. The forfeiture provided for in this section shall apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles in each invoice which are undervalued: *Provided, further*, That all additional duties, penalties, or forfeitures applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form of an invoice, and no forfeiture or disability of any kind incurred under the provisions of this section shall be remitted or mitigated by the Secretary of the Treasury. The duty shall not, however, be assessed in any case upon an amount less than the invoice or entered value.

"SEC. 8. That when merchandise entered for customs duty has been consigned for sale by or on account of the manufacturer thereof, to a person, agent, partner, or consignee in the United States, such person, agent, partner, or consignee shall, at the time of the entry of such merchandise, present to the collector of customs at the port where such entry is made, as a part of such entry, and in addition to the certified invoice or statement in the form of an invoice required by law, a statement signed by such manufacturer, declaring the cost of production of such merchandise, such cost to include all the elements of cost as stated in section eleven of this act. When merchandise entered for customs duty has been consigned for sale by or on account of a person other than the manufacturer of such merchandise, to a person, agent, partner, or consignee in the United States, such person, agent, partner, or consignee shall at the time of the entry of such merchandise present to the collector of customs at the port where such entry is made, as a part of such entry, a statement signed by the consignor thereof, declaring that the merchandise was actually purchased by him or for his account, and showing the time when, the place where, and from whom he purchased the merchandise, and in detail the price he paid for the same: *Provided*, That the statements required by this section shall be made in triplicate, and shall bear the attestation of the consular officer of the United States resident within the consular district wherein the merchandise was manufactured, if consigned by the manufacturer or for his account, or from whence it was imported

when consigned by a person other than the manufacturer, one copy thereof to be delivered to the person making the statement, one copy to be transmitted with the triplicate invoice of the merchandise to the collector of the port in the United States to which the merchandise is consigned, and the remaining copy to be filed in the consulate.

"SEC. 9. That if any owner, importer, consignee, agent, or other person shall make or attempt to make any entry of imported merchandise by means of any fraudulent or false invoice, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or shall be guilty of any willful act or omission by means whereof the the United States shall be deprived of its lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, affidavit, letter, paper, or statement, or affected by such act or omission, such merchandise, or the value thereof, to be recovered from the person making the entry, shall be forfeited, which forfeiture shall only apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles of merchandise to which such fraud or false paper or statement relates; and such person shall, upon conviction, be fined for each offense a sum not exceeding five thousand dollars, or be imprisoned for a time not exceeding two years, or both, in the discretion of the court.

"SEC. 10. That it shall be the duty of the appraisers of the United States, and every of them, and every person who shall act as such appraiser, or of the collector, as the case may be, by all reasonable ways and means in his or their power to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of cost, or of cost of production to the contrary notwithstanding) the actual market value and wholesale price of the merchandise at the time of exportation to the United States, in the principal markets of the country whence the same has been imported, and the number of yards, parcels, or quantities, and actual market value or wholesale price of every of them, as the case may require.

"SEC. 11. That when the actual market value, as herein defined, of any article of imported merchandise wholly or partially manufactured and subject to ad valorem duty, or to duty based in whole or in part on value, can not be ascertained to the satisfaction of the appraising officer, the appraiser or appraisers shall use all available means to ascertain the cost of production of such merchandise at the time of exportation to the United States, and at the place of manufacture; such cost of production to include cost of materials and of fabrication, all general expenses covering each and every outlay of whatsoever nature incident to such production, together with the expense of preparing and putting up such merchandise ready for shipment, and an addition of eight per cent upon the total cost as thus ascertained; and in no such case shall such merchandise be appraised upon original appraisal or reappraisement at less than the total cost of production as thus ascertained."

The "Act to provide revenue for the Government and to encourage the industries of the United States," approved July 24, 1897, amended section 11 so as to read as follows:

"SEC. 11. That, when the actual market value as defined by law, of any article of imported merchandise, wholly or partly manufactured and subject to an ad valorem duty, or to a duty based in whole or in

part on value, can not be otherwise ascertained to the satisfaction of the appraising officer, such officer shall use all available means in his power to ascertain the cost of production of such merchandise at the time of exportation to the United States, and at the place of manufacture; such cost of production to include the cost of materials and of fabrication, all general expenses covering each and every outlay of whatsoever nature incident to such production, together with the expense of preparing and putting up such merchandise ready for shipment, and an addition of not less than eight nor more than fifty per centum upon the total cost as thus ascertained; and in no case shall such merchandise be appraised upon original appraisal or reappraisal at less than the total cost of production as thus ascertained. It shall be lawful for appraising officers, in determining the dutiable value of such merchandise, to take into consideration the wholesale price at which such or similar merchandise is sold or offered for sale in the United States, due allowance being made for estimated duties thereon, the cost of transportation, insurance, and other necessary expenses from the place of shipment to the United States, and a reasonable commission, if any has been paid, not exceeding six per centum.

“SEC. 12. That there shall be appointed by the President, by and with the advice and consent of the Senate, nine general appraisers of merchandise, each of whom shall receive a salary of seven thousand dollars a year. Not more than five of such general appraisers shall be appointed from the same political party. They shall not be engaged in any other business, avocation, or employment, and may be removed from office at any time by the President for inefficiency, neglect of duty, or malfeasance in office. They shall be employed at such ports and within such territorial limits as the Secretary of the Treasury may from time to time prescribe, and are hereby authorized to exercise the powers and duties devolved upon them by this act, and to exercise, under the general direction of the Secretary of the Treasury, such other supervision over appraisements and classifications, for duty, of imported merchandise as may be needful to secure lawful and uniform appraisements and classifications at the several ports. Three of the general appraisers shall be on duty as a board of general appraisers daily (except Sunday and legal holidays) at the port of New York, during the business hours prescribed by the Secretary of the Treasury, at which port a place for samples shall be provided, under such rules and regulations as the Secretary of the Treasury may from time to time prescribe, which shall include rules as to the classes of articles to be deposited, the time of their retention, and as to their disposition, which place of samples shall be under the immediate control and direction of the Board of General Appraisers on duty at said port.

“SEC. 13. That the appraiser shall revise and correct the reports of the assistant appraisers as he may judge proper, and the appraiser, or, at ports where there is no appraiser, the person acting as such, shall report to the collector his decision as to the value of the merchandise appraised. At ports where there is no appraiser, the certificate of the customs officer to whom is committed the estimating and collection of duties, of the dutiable value of any merchandise required to be appraised, shall be deemed and taken to be the appraisement of such merchandise. If the collector shall deem the appraisement of any imported merchandise too low he may order a reappraisal, which shall be made by one of the general appraisers, or, if the importer, owner,

agent, or consignee of such merchandise shall be dissatisfied with the appraisement thereof, and shall have complied with the requirements of law with respect to the entry and appraisement of merchandise, he may, within two days thereafter, give notice to the collector, in writing, of such dissatisfaction, on the receipt of which the collector shall at once direct a reappraisement of such merchandise by one of the general appraisers. The decision of the appraiser or the person acting as such (in cases where no objection is made thereto, either by the collector or by the importer, owner, consignee, or agent), or of the general appraiser in cases of reappraisement, shall be final and conclusive as to the dutiable value of such merchandise against all parties interested therein, unless the importer, owner, consignee, or agent of the merchandise shall be dissatisfied with such decision, and shall, within two days thereafter give notice to the collector in writing of such dissatisfaction, or unless the collector shall deem the appraisement of the merchandise too low, in either case the collector shall transmit the invoice and all the papers appertaining thereto to the board of three general appraisers, which shall be on duty at the port of New York, or to a board of three general appraisers who may be designated by the Secretary of the Treasury for such duty at that port or at any other port, which board shall examine and decide the case thus submitted, and their decision, or that of a majority of them, shall be final and conclusive as to the dutiable value of such merchandise against all parties interested therein, and the collector or the person acting as such shall ascertain, fix, and liquidate the rate and amount of duties to be paid on such merchandise, and the dutiable costs and charges thereon, according to law.

“SEC. 14. That the decision of the collector as to the rate and amount of duties chargeable upon imported merchandise, including all dutiable costs and charges, and as to all fees and exactions of whatever character (except duties on tonnage), shall be final and conclusive against all persons interested therein, unless the owner, importer, consignee, or agent of such merchandise, or the person paying such fees, charges, and exactions other than duties, shall, within ten days after ‘but not before’ such ascertainment and liquidation of duties, as well in cases of merchandise entered in bond as for consumption, or within ten days after the payment of such fees, charges, and exactions, if dissatisfied with such decision give notice in writing to the collector, setting forth therein distinctly and specifically, and in respect to each entry or payment, the reasons for his objections thereto, and if the merchandise is entered for consumption shall pay the full amount of the duties and charges ascertained to be due thereon. Upon such notice and payment the collector shall transmit the invoice and all the papers and exhibits connected therewith to the board of three general appraisers, which shall be on duty at the port of New York, or to a board of three general appraisers who may be designated by the Secretary of the Treasury for such duty at that port or at any other port, which board shall examine and decide the case thus submitted, and their decision, or that of a majority of them, shall be final and conclusive upon all persons interested therein, and the record shall be transmitted to the proper collector or person acting as such who shall liquidate the entry accordingly, except in cases where an application shall be filed in the circuit court within the time and in the manner provided for in section fifteen of this act.

“SEC. 15. That if the owner, importer, consignee, or agent of any imported merchandise, or the collector, or the Secretary of the Treas-

ury, shall be dissatisfied with the decision of the board of general appraisers, as provided for in section fourteen of this act, as to the construction of the law and the facts respecting the classification of such merchandise and the rate of duty imposed thereon under such classification, they or either of them may, within thirty days next after such decision, and not afterwards, apply to the circuit court of the United States within the district in which the matter arises, for a review of the questions of law and fact involved in such decision. Such application shall be made by filing in the office of the clerk of said circuit court a concise statement of the errors of law and fact complained of, and a copy of such statement shall be served on the collector, or on the importer, owner, consignee, or agent, as the case may be. Thereupon the court shall order the board of appraisers to return to said circuit court the record and the evidence taken by them, together with a certified statement of the facts involved in the case, and their decisions thereon; and all the evidence taken by and before said appraisers shall be competent evidence before said circuit court; and within twenty days after the aforesaid return is made the court may, upon the application of the Secretary of the Treasury, the collector of the port, or the importer, owner, consignee, or agent, as the case may be, refer it to one of said general appraisers, as an officer of the court, to take and return to the court such further evidence as may be offered by the Secretary of the Treasury, collector, importer, owner, consignee, or agent, within sixty days thereafter, in such order and under such rules as the court may prescribe; and such further evidence with the aforesaid returns shall constitute the record upon which said circuit court shall give priority to and proceed to hear and determine the questions of law and fact involved in such decision, respecting the classification of such merchandise and the rate of duty imposed thereon under such classification, and the decision of such court shall be final, and the proper collector, or person acting as such, shall liquidate the entry accordingly, unless such court shall be of opinion that the question involved is of such importance as to require a review of such decision by the Supreme Court of the United States, in which case said circuit court, or the judge making the decision, may, within thirty days thereafter, allow an appeal to said Supreme Court; but an appeal shall be allowed on the part of the United States whenever the Attorney-General shall apply for it within thirty days after the rendition of such decision. On such original application, and on any such appeal, security for damages and costs shall be given as in the case of other appeals in cases in which the United States is a party. Said Supreme Court shall have jurisdiction and power to review such decision, and shall give priority to such cases, and may affirm, modify, or reverse such decision of such circuit court, and remand the case with such orders as may seem to it proper in the premises, which shall be executed accordingly. All final judgments, when in favor of the importer, shall be satisfied and paid by the Secretary of the Treasury from the permanent indefinite appropriation provided for in section twenty-three of this act. For the purposes of this section the circuit courts of the United States shall be deemed always open, and said circuit courts, respectively, may establish, and from time to time alter, rules and regulations not inconsistent herewith for the procedure in such cases as they shall deem proper.

"SEC. 16. That the general appraisers, or any of them, are hereby authorized to administer oaths, and said general appraisers, the boards of general appraisers, the local appraisers or the collectors, as the case may be, may cite to appear before them, and examine upon oath any

owner, importer, agent, consignee, or other person touching any matter or thing which they, or either of them, may deem material respecting any imported merchandise, in ascertaining the dutiable value or classification thereof; and they, or either of them, may require the production of any letters, accounts, or invoices relating to said merchandise, and may require such testimony to be reduced to writing, and when so taken it shall be filed in the office of the collector, and preserved for use or reference until the final decision of the collector or said board of appraisers shall be made respecting the valuation or classification of said merchandise, as the case may be.

"SEC. 17. That if any person so cited to appear shall neglect or refuse to attend, or shall decline to answer, or shall refuse to answer in writing any interrogatories, and subscribe his name to his deposition, or to produce such papers when so required by a general appraiser, or a board of general appraisers, or a local appraiser or a collector, he shall be liable to a penalty of one hundred dollars; and if such person be the owner, importer, or consignee, the appraisement which the general appraiser, or board of general appraisers, or local appraiser or collector, where there is no appraiser, may make of the merchandise shall be final and conclusive; and any person who shall willfully and corruptly swear falsely on an examination before any general appraiser, or board of general appraisers, or local appraiser or collector, shall be deemed guilty of perjury; and if he is the owner, importer, or consignee, the merchandise shall be forfeited.

"SEC. 18. That all decisions of the general appraisers and of the boards of general appraisers, respecting values and rates of duty, shall be preserved and filed, and shall be open to inspection under proper regulations to be prescribed by the Secretary of the Treasury. All decisions of the general appraisers shall be reported forthwith to the Secretary of the Treasury and to the board of general appraisers on duty at the port of New York, and the report to the board shall be accompanied, whenever practicable, by samples of the merchandise in question, and it shall be the duty of the said board, under the direction of the Secretary of the Treasury, to cause an abstract to be made and published of such decisions of the appraisers as they may deem important, and of the decisions of each of the general appraisers and boards of general appraisers, which abstract shall contain a general description of the merchandise in question, and of the value and rate of duty fixed in each case, with reference, whenever practicable, by number or other designation, to samples deposited in the place of samples at New York, and such abstract shall be issued from time to time, at least once in each week, for the information of customs officers and the public.

"SEC. 19. That whenever imported merchandise is subject to an ad valorem rate of duty, or to a duty based upon or regulated in any manner by the value thereof, the duty shall be assessed upon the actual market value or wholesale price of such merchandise as bought and sold in usual wholesale quantities, at the time of exportation to the United States, in the principal markets of the country from whence imported, and in the condition in which such merchandise is there bought and sold for exportation to the United States, or consigned to the United States for sale, including the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, and if there be used for covering or holding imported merchandise, whether dutiable

or free, any unusual article or form designed for use otherwise than in the bona fide transportation of such merchandise to the United States, additional duty shall be levied and collected upon such material or article at the rate to which the same would be subject if separately imported. That the words 'value', or 'actual market value', whenever used in this act or in any law relating to the appraisement of imported merchandise shall be construed to mean the actual market value or wholesale price as defined in this section.

"SEC. 20. Any merchandise deposited in any public or private bonded warehouse may be withdrawn for consumption within three years from the date of original importation, on payment of the duties and charges to which it may be subject by law at the time of such withdrawal: *Provided*, That nothing herein shall affect or impair existing provisions of law in regard to the disposal of perishable or explosive articles.

"SEC. 21. That in all suits or informations brought, where any seizure has been made pursuant to any act providing for or regulating the collection of duties on imports or tonnage, if the property is claimed by any person, the burden of proof shall lie upon such claimant: *Provided*, That probable cause is shown for such prosecution, to be judged of by the court.

"SEC. 22. That all fees exacted and oaths administered by officers of the customs, except as provided in this act, under or by virtue of existing laws of the United States, upon the entry of imported goods and the passing thereof through the customs, and also upon all entries of domestic goods, wares, and merchandise for exportation, be, and the same are hereby, abolished; and in case of entry of merchandise for exportation, a declaration, in lieu of an oath, shall be filed, in such form and under such regulations as may be prescribed by the Secretary of the Treasury; and the penalties provided in the sixth section of this act for false statements in such declaration shall be applicable to declarations made under this section: *Provided*, That where such fees, under existing laws, constitute, in whole or in part, the compensation of any officer, such officer shall receive, from and after the passage of this act, a fixed sum for each year equal to the amount which he would have been entitled to receive as fees for such services during said year.

"SEC. 23. That no allowance for damage to goods, wares, and merchandise imported into the United States shall hereafter be made in the estimation and liquidation of duties thereon; but the importer thereof may, within ten days after entry, abandon to the United States all or any portion of goods, wares, and merchandise included in any invoice, and be relieved from the payment of the duties on the portion so abandoned: *Provided*, That the portion so abandoned shall amount to ten per centum or over of the total value or quantity of the invoice; and the property so abandoned shall be sold by public auction or otherwise disposed of for the account and credit of the United States under such regulations as the Secretary of the Treasury may prescribe.

"SEC. 24. That whenever it shall be shown to the satisfaction of the Secretary of the Treasury that, in any case of unascertained or estimated duties, or payments made upon appeal, more money has been paid to or deposited with a collector of customs than, as has been ascertained by final liquidation thereof, the law required to be paid or deposited, the Secretary of the Treasury shall direct the Treasurer to refund and pay the same out of any money in the Treasury not otherwise appropriated. The necessary moneys therefor are hereby appropriated, and this appropriation shall be deemed a permanent indefinite

appropriation; and the Secretary of the Treasury is hereby authorized to correct manifest clerical errors in any entry or liquidation, for or against the United States, at any time within one year of the date of such entry, but not afterwards: *Provided*, That the Secretary of the Treasury shall, in his annual report to Congress, give a detailed statement of the various sums of money refunded under the provisions of this act or of any other act of Congress relating to the revenue, together with copies of the rulings under which repayments were made.

"SEC. 25. That from and after the taking effect of this act, no collector or other officer of the customs shall be in any way liable to any owner, importer, consignee, or agent of any merchandise, or any other person, for or on account of any rulings or decisions as to the classification of said merchandise or the duties charged thereon, or the collection of any dues, charges, or duties on or on account of said merchandise, or any other matter or thing as to which said owner, importer, consignee, or agent of such merchandise might, under this act, be entitled to appeal from the decision of said collector or other officer, or from any board of appraisers provided for in this act.

"SEC. 26. That any person who shall give, or offer to give or promise to give, any money or thing of value, directly or indirectly, to any officer or employee of the United States in consideration of or for any act or omission contrary to law in connection with or pertaining to the importation, appraisement, entry, examination, or inspection of goods, wares, or merchandise including herein any baggage, or of the liquidation of the entry thereof, or shall by threats or demands, or promises of any character attempt to improperly influence or control any such officer or employee of the United States as to the performance of his official duties shall, on conviction thereof, be fined not exceeding two thousand dollars, or be imprisoned at hard labor not more than one year, or both, in the discretion of the court; and evidence of such giving, or offering, or promising to give, satisfactory to the court in which such trial is had, shall be regarded as *prima facie* evidence that such giving or offering or promising was contrary to law, and shall put upon the accused the burden of proving that such act was innocent and not done with an unlawful intention.

"SEC. 27. That any officer or employee of the United States who shall, excepting for lawful duties or fees, solicit, demand, exact, or receive from any person, directly or indirectly, any money or thing of value in connection with or pertaining to the importation, appraisement, entry, examination, or inspection of goods, wares, or merchandise, including herein any baggage or liquidation of the entry thereof, on conviction thereof shall be fined not exceeding five thousand dollars or be imprisoned at hard labor not more than two years, or both, in the discretion of the court. And evidence of such soliciting, demanding, exacting, or receiving, satisfactory to the court in which such trial is had, shall be regarded as *prima facie* evidence that such soliciting, demanding, exacting, or receiving was contrary to law, and shall put upon the accused the burden of proving that such act was innocent and not with an unlawful intention.

"SEC. 28. That any baggage or personal effects arriving in the United States in transit to any foreign country may be delivered by the parties having it in charge to the collector of the proper district, to be by him retained, without the payment or exaction of any import duty, or to be forwarded by such collector to the collector of the port of departure and to be delivered to such parties on their departure for their

foreign destination, under such rules and regulations as the Secretary of the Treasury may prescribe.

"SEC. 29. That sections twenty-six hundred and eight, twenty-eight hundred and thirty-eight, twenty-eight hundred and thirty-nine, twenty-eight hundred and forty-one, twenty-eight hundred and forty-three, twenty-eight hundred and forty-five, twenty-eight hundred and fifty-three, twenty-eight hundred and fifty-four, twenty-eight hundred and fifty-six, twenty-eight hundred and fifty-eight, twenty-eight hundred and sixty, twenty-nine hundred, and twenty-nine hundred and two, twenty-nine hundred and five, twenty-nine hundred and seven, twenty-nine hundred and eight, twenty-nine hundred and nine, twenty-nine hundred and twenty-two, twenty-nine hundred and twenty-three, twenty-nine hundred and twenty-four, twenty-nine hundred and twenty-seven, twenty-nine hundred and twenty-nine, twenty-nine hundred and thirty, twenty-nine hundred and thirty-one, twenty-nine hundred and thirty-two, twenty-nine hundred and forty-three, twenty-nine hundred and forty-five, twenty-nine hundred and fifty-two, three thousand and eleven, three thousand and twelve, three thousand and twelve and one-half, three thousand and thirteen, of the Revised Statutes of the United States, be, and the same are hereby repealed, and sections nine, ten, eleven, twelve, fourteen, and sixteen of an act entitled "An act to amend the customs-revenue laws and to repeal moiety," approved June twenty-second, eighteen hundred and seventy-four, and sections seven, eight, and nine of the act entitled "An act to reduce internal-revenue taxation, and for other purposes," approved March third, eighteen hundred and eighty-three, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, but the repeal of existing laws or modifications thereof embraced in this act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal or modifications; but all rights and liabilities under said laws shall continue and may be enforced in the same manner as if said repeal or modifications had not been made. Any offenses committed, and all penalties or forfeitures or liabilities incurred prior to the passage of this act under any statute embraced in or changed, modified, or repealed by this act may be prosecuted and punished in the same manner and with the same effect as if this act had not been passed. All acts of limitation, whether applicable to civil causes and proceedings or to the prosecution of offenses or for the recovery of penalties or forfeitures embraced in or modified, changed, or repealed by this act, shall not be affected thereby; and all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to the passage of this act, may be commenced and prosecuted within the same time and with the same effect as if this act had not been passed: *And provided further*, That nothing in this act shall be construed to repeal the provisions of section three thousand and fifty-eight of the Revised Statutes as amended by the act approved February twenty-third, eighteen hundred and eighty-seven, in respect to the abandonment of merchandise to underwriters or the salvors of property, and the ascertainment of duties thereon.

"SEC. 30. That this act shall take effect on the first day of August, eighteen hundred and ninety, except so much of section twelve as provides for the appointment of nine general appraisers, which shall take effect immediately."

Approved, June 10, 1890.

## STATEMENT OF JOSEPH J. COUCH.

Senator PLATT, of Connecticut. What is your name?

Mr. COUCH. Joseph J. Couch.

Senator PLATT, of Connecticut. What is your position?

Mr. COUCH. I am chief clerk of customs and special deputy collector.

Senator PLATT, of Connecticut. How long have you been here?

Mr. COUCH. Since October, 1861.

Senator PLATT, of Connecticut. How long have you occupied the position which you now hold?

Mr. COUCH. Since March, 1890.

Senator PLATT, of Connecticut. In the position which you occupy is it your duty to familiarize yourself with all the details of the operation of the custom-house?

Mr. COUCH. Yes, sir; in a general way.

Senator PLATT, of Connecticut. When goods are imported here what becomes of them? How are they treated?

Mr. COUCH. Do you wish me to start with the treatment of the goods from the beginning?

Senator PLATT, of Connecticut. Yes; not in too much detail, but so as to give us a general idea of the disposition of the goods from the time they are brought to this port until the duties are collected.

Mr. COUCH. Upon the arrival of an importing vessel the boarding officer goes aboard and receives from the captain of the vessel a manifest of his cargo, in duplicate. He certifies to that manifest as being produced to him, leaves one copy with the captain to make entry by, and retains the other copy for the use of the naval office.

Senator PLATT, of Connecticut. Who does?

Mr. COUCH. The boarding officer. At the same time there are placed on board the vessel officers known as inspectors, who take charge of the vessel and cargo under instructions to allow nothing to be landed except upon permits or orders of the collector, countersigned by the naval officer. The captain appears at the custom-house and makes entry of his vessel with declaration of her voyage, lodges the manifest, and pays his tonnage duty.

Senator PLATT, of Connecticut. What does the manifest contain?

Mr. COUCH. It contains, by marks and numbers, a description of packages, the consignors and consignees of the merchandise which constitutes the cargo of the vessel.

Senator PLATT, of Connecticut. The manifest and the invoice are two separate things?

Mr. COUCH. Entirely; on different lines. The manifest certifies to the collector all the merchandise that is contained in the vessel. That constitutes the entry of the vessel.

At the same time the importers of the merchandise contained in the vessel present their bills of lading, invoices, and written entry to make entry of their merchandise. That we designate as the entry of merchandise. At the time they present that entry they make one of the three declarations required in the customs administrative act. Sometimes two are required, but one of the three always.

The entry is required to be made in accordance with the invoice presented, as to marks, numbers, and description of the goods, and is separated or classified according to the importer's understanding of the tariff schedules. Do I make that point clear? What I mean is this: Here is a general invoice in which there are various descriptions

of goods. The importer in making his entry separates those goods according to the classification of the tariff schedules as he understands them. After the importer has made the required declaration upon his entry, the entry, with accompanying papers, is lodged with the entry clerks, whose business it is to examine all the papers presented, see that proper entry has been made and by the proper parties, as indicated by the papers.

Senator PLATT, of Connecticut. Has the entry clerk any power to revise the classification which has been made by the importer?

Mr. COUCH. Yes, sir. The entry clerk then proceeds to make a preliminary estimate of the duties as shown by the specifications of the invoice and accompanying papers. When he has completed his work upon the papers they are sent to the naval office, where a like examination and estimation are made, and if found to agree with the collector's action the naval officer or his entry clerk checks the action of the collector on the collector's copy and returns the papers.

Under the present organization of the office the collector's entry clerk is made an acting deputy collector, in which capacity he designates the packages to be sent to the appraiser's stores for examination and appraisement.

Senator PLATT, of Connecticut. How many entry clerks are there?

Mr. COUCH. The number varies from 13 to 15 to 17. I do not know just how many there are now; 15, I think.

Mr. GEORGE R. BIDWELL (collector of the port of New York). There is the whole foundation and safeguard of the collection of customs—in the designation of the packages that go to the appraiser's stores.

Senator PLATT, of Connecticut. Does an importer know to which entry clerk in the division his goods will go, so that there can be any collusion between an importer and a particular entry clerk?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. How is that obviated?

Mr. COUCH. The entry clerks are separated from the public. The papers are put in and receive their official numbers as they come in. They then go to a distributing clerk, who distributes them to the different desks in the room.

Senator PLATT, of Connecticut. Could the distributing clerk in any way be in collusion with the importer?

Mr. COUCH. Inasmuch as the distributing clerk is sometimes a messenger and sometimes the chief clerk—anyone who happens to be on duty at the moment—I do not think it would be practicable.

Senator PLATT, of Connecticut. It is a purely formal proceeding?

Mr. COUCH. It is a formal distribution. I can illustrate it by a single instance which came up recently in the matter of an importation of handkerchiefs, which is now pending in the appraiser's department, I believe. It was stated in an investigation that the matter of false packing had been going on for some time, and it was supposed that it was through collusion in the collector's office. In consequence of that statement an investigation was made of the entries which had been made by the concern under suspicion, running back for a year. It was found that the designation of packages to the public stores had been made by every entry clerk in the division, so that if there was collusion in the matter of designating packages, it must have included the entire circle.

Senator PLATT, of Connecticut. Practically, you think there is no room for collusion?

Mr. COUCH. I think not; that is, I think it is reduced to a minimum. I do not know of any administrative plan you can adopt which, if you have dishonest administrators, might not be got around.

The designation to which I refer is made at the same time that he passes the entry. If the naval officer, under his examination, deems it desirable to have other packages sent for examination, he certifies that fact, and such other packages as he designates are added.

Senator JONES, of Arkansas. Are the additional packages selected by the entry clerk?

Mr. COUCH. In the naval office.

Senator JONES, of Arkansas. Does the naval office select them or does the entry clerk?

Mr. COUCH. After the collector has, through his office, made his designation, if the naval officer desires any other packages than those designated, he indicates them and they are added.

Senator JONES, of Arkansas. Does he indicate the particular package?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. In practice is that often done?

Mr. COUCH. It is occasionally done.

Senator PLATT, of Connecticut. It might be done?

Mr. COUCH. It is occasionally done, but it is not a frequent occurrence.

The entry, on return from the naval office, is then ready to go to the cashier, if it is an import entry, and is returned to the importer to give him an opportunity to examine his papers and permits, to see if any error has been committed, so that he may call attention to any error he discovers in the work of the office.

Senator PLATT, of Connecticut. It might be revised right at that stage, if there was error?

Mr. COUCH. Yes, sir. There is where it would be revised. If he discovers no error he takes the papers to the cashier with his money and pays the estimated duties, receiving a permit for the delivery of his goods, with the exception of the designated packages to the public stores. The cashier retains the collector's copy of the entry and the invoice—but I should say that before the cashier receives any money the papers have to be presented to the cashier of the naval office and charged against the collector there.

The invoices and entries are then separated. The entries are sent to the liquidating division to await the returns of the appraiser or examining officers, as the case may be. The invoices are forwarded to the appraiser to meet the goods which are ordered to his place for examination. The permit which has been given to the importer is taken by him to the place where the vessel is discharging. It is addressed to the inspector in charge of that cargo. The inspector receives the permit and releases to the importer all the goods described in the permit except those designated in the margin for examination by the appraiser. Of those so designated he retains custody, and he has them sent by the regular bonded carts to the appraiser's stores and receives a receipt therefor.

Senator PLATT, of Connecticut. In getting the permit, does the importer give bond?

Mr. COUCH. The importer gives, on a consumption permit, what is known as the ten-day bond, that is, a bond by which he binds himself to produce on the call of the collector any or all of the cases deliv-

ered to him under permit at any time within ten days after the appraiser has made his return to the collector upon the invoice.

Senator JONES, of Arkansas. Such a bond is given in what cases?

Mr. COUCH. In cases of consumption goods—that is, where delivery is made right from the vessel to the importer.

Senator PLATT, of Connecticut. Have you one of those blank bonds?

Mr. COUCH. They are in books, outside. They are all bound in books.

Senator PLATT, of Connecticut. I wish you would present a copy to be inserted in the record.

Mr. COUCH. I will do so.

The bond referred to is as follows:

[Art. 281, Customs Regulations of 1892.—N. Y. Cat. No. 694 B.]

BOND OF IMPORTER ON DELIVERY TO HIM OF PACKAGES NOT  
DESIGNATED FOR EXAMINATION.

Know all men by these presents, That we, ———, as principal, and ——— and ———, as sureties, are held and firmly bound unto the United States of America in the sum of ——— dollars; for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Witness our hands and seals this — day of —, one thousand eight hundred and ninety —.

Whereas the above-bounden principal hath this day entered at the port of New York certain goods, wares, and merchandise, imported in the —, whereof — is master, lately arrived from —, and described in consumption entry dated — and numbered —, and in the invoice accompanying the same; and whereas said principal has requested the delivery to him of all packages described in said entry and invoice which shall not be designated for inspection and appraisal:

Now, therefore, the condition of this obligation is such, that if the above-bounden principal shall redeliver the said goods to the order of the collector, provided he shall require the same at any time within ten days after the packages or quantities so as aforesaid sent to the public store or designated for appraisement shall have been appraised and reported to the collector, and also if in the meantime none of the said packages to be delivered as aforesaid shall have been opened without the consent of the collector or surveyor, given in writing, and then in the presence of one of the inspectors of customs, then this obligation to be void; otherwise, to remain in full force and virtue.

—————. [SEAL.]  
—————. [SEAL.]  
—————. [SEAL.]

Signed, sealed, and delivered in the presence of—

—————  
—————

The above form of bond may be presented by the importer, duly executed at the time of making entry, and should be either printed on the back of the entry or firmly attached thereto.

Senator PLATT, of Connecticut. Upon his giving the bond he takes all the packages that are not sent to the appraiser's stores?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. I wish to ask you one other question. Is the designation of packages to be sent to the appraiser's stores regulated by law or by Treasury regulation?

Mr. COUCH. It is regulated in part by statute. It is at least one package of every invoice, and not less than one in ten where there are a number of packages on the invoice. The law is to be found in the Revised Statutes.

Senator PLATT, of Connecticut. It is within the power of the collector to order all the packages there?

Mr. COUCH. Everything.

Senator PLATT, of Connecticut. And it is within the power of the Treasury Department, the Secretary of the Treasury, to do it?

Mr. COUCH. The collector would order it on instructions, or he would order it on his own motion, or he would order it on the request of the appraiser. That is done very frequently.

Mr. BIDWELL. Usually it comes by request from the appraiser.

Mr. COUCH. That is the ordinary way. If the appraiser is not satisfied with any given line of importation or the importations of any given party, he is very apt to send a note to the collector requesting that such goods or the goods of such a party be all ordered in, in which case we follow that request until he withdraws it.

Senator PLATT, of Connecticut. Is it a request that goods which may thereafter come to that party shall be ordered in, or does it refer to the goods already delivered to the importer?

Mr. COUCH. That is for future action.

In a case where he requests goods to be brought in which were not ordered in he makes application or request of the collector, and the collector then orders the importer to produce those goods; and that is the order in response to the ten-day bond.

Senator JONES, of Arkansas. Are such orders frequent?

Mr. COUCH. Well, yes, sir; somewhat so.

Senator JONES of Arkansas. Are they responded to?

Mr. COUCH. Sometimes they are. Sometimes they report that the goods have been disposed of and that they can furnish verified samples. I should say that in the majority of cases we fail to get the goods delivered intact. That is a hazard; I have not made the computation.

Senator PLATT, of Connecticut. Now, you have the goods up to the appraiser's stores.

Mr. COUCH. If the goods are subject to specific duty, the appraiser examines the goods and certifies to their composition and reports his advisory rate; that is, the clause in the schedule under which he views them.

Senator PLATT, of Connecticut. If he finds that they are subject only to a specific duty he has nothing to do with valuation?

Mr. COUCH. There is no appraisement made. We simply accept the invoice value unless they are subject to a specific duty based upon value. In that case he makes an appraisement the same as when there is an ad valorem duty.

When it comes to duties based upon value or to ad valorem duties, the appraiser is required to ascertain the actual market value of the goods on each particular article. If he finds that value to be less than the value stated in the invoice or not greater than the value stated in the invoice, he returns the invoice without any advance. If he finds the invoice to be undervalued, he adds to the price in the invoice such an amount as is required to meet his appraisement.

Senator PLATT, of Connecticut. As a matter of practice, does the appraiser find sometimes that the goods are valued higher than they should be?

Mr. COUCH. Yes, sir; but he makes no report of it. We never know that unless some other question comes up later.

Senator PLATT, of Connecticut. So that the importer is held at all events to the value which he has declared when he makes his entry?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. However much it may be over the real value, the duty is collected on the value as stated in the entry?

Mr. COUCH. Yes, sir.

Senator JONES, of Arkansas. That is because the law is imperative?

Mr. COUCH. That is because the law declares that the duty shall not be assessed on less than the declared or invoiced value.

Senator PLATT, of Connecticut. How can it happen that an importer who has to pay duties will ever allow an invoice to be made of goods at more than their real market value in the countries whence they are exported?

Mr. COUCH. I state one case in the paper which will be presented to you. I could give you various other ones. But in a general way it would happen whenever in the case of actually purchased goods the market should fall between the time of purchase and the time of shipment.

Senator PLATT, of Connecticut. It might fall seriously?

Mr. COUCH. Very seriously. Take some of these season goods, and the market may fall inside of three weeks clear out of sight.

Senator PLATT, of Connecticut. To illustrate, take a case of pattern goods, where very much depends on whether or not the pattern is popular. If it is not a taking pattern, that particular pattern will drop out at once?

Mr. COUCH. Yes, sir; it goes on the shelf.

To resume, when an advanced invoice is returned to the collector the importer has two official days within which to challenge the advance. If the importer accepts the advance he then proceeds with the liquidation of the entry. If he does not accept the advance he may make an appeal for reappraisement to one of the board of general appraisers.

Senator PLATT, of Connecticut. The collector in the meantime has to pass on the appraisement of the appraiser?

Mr. COUCH. Ordinarily in the first instance if there is an advance we leave it to the importer. If he is not satisfied, his appeal carries it up.

Senator PLATT, of Connecticut. Would he come to the collector and say, "I am not satisfied; you ought not to accept the advanced valuation made by the appraiser;" and would the collector at that stage determine the matter?

Mr. COUCH. No, sir. The collector would only act in cases where he deems the appraisement too low. For example, if a case were under examination and the collector had information with reference to it, when the appraiser's return came to him if he should feel that the appraiser had not made a sufficient advance, he would appeal the case to the general appraiser.

Senator PLATT, of Connecticut. So either the importer may appeal from the action of the appraiser to the general appraisers or the collector may?

Mr. COUCH. Either one, but the collector only exercises that function where he has information that the action of the appraiser is too low. He would not appeal for the purpose of reducing the appraisement.

Senator PLATT, of Connecticut. Then the papers go back?

Mr. COUCH. In cases of appeals the invoices are sent to the appraiser.

Senator PLATT, of Connecticut. Has he still held the goods?

Mr. COUCH. We hold the goods.

Senator PLATT, of Connecticut. The goods that have gone to the appraiser's stores?

Mr. COUCH. Yes, sir; but they are held by the collector. We do not make delivery of any advanced goods until the question of appraisement is settled, or until the board of general appraisers certifies that they can appraise on verified sample and the importer stipulates to abide appraisement by those samples.

Senator PLATT, of Connecticut. The collector holds the goods, but they are in the appraiser's stores?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. The general appraiser to whom the appeal goes is designated or fixed by the organization of the board of general appraisers?

Mr. COUCH. Yes, sir; we have nothing to do with that.

Senator PLATT, of Connecticut. Then there is an appeal from him?

Mr. COUCH. The report by the general appraiser is returned to the collector the same as the original appraisement. If the collector deems the appraisement too low or if the importer is dissatisfied with the return of the general appraiser, a further appeal may be made to the full board.

Senator JONES, of Arkansas. Has the importer the right of appeal absolutely without any discretion on the part of the collector?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. He has two days then?

Mr. COUCH. Two days each time.

Senator PLATT, of Connecticut. Suppose he makes the appeal?

Mr. COUCH. It goes back to the board. Their finding of value is final and conclusive against all parties.

Senator JONES, of Arkansas. How many of the board sit on that appeal?

Mr. COUCH. Three.

Senator JONES, of Arkansas. Is it always the same three?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. Is the general appraiser who has once passed upon the question of value a member of the board?

Mr. COUCH. I understand not. I have never known a case where he was.

Senator PLATT, of Connecticut. If the importer accepts the work of the general appraiser and the collector is satisfied, then the importer liquidates here?

Mr. COUCH. Yes, sir. In a word, the question of value is absolutely and finally settled before liquidation.

Senator PLATT, of Connecticut. The action of the general appraisers is final as to value?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. How as to classification?

Mr. COUCH. Classification is on an entirely different line.

Senator PLATT, of Connecticut. You have not been talking of classification.

Mr. COUCH. I have not come to that point yet.

Senator PLATT, of Connecticut. Very well.

Mr. COUCH. Having fixed the legal value, the collector proceeds to liquidate the duties. This liquidation consists in the classification of the different portions of the invoice to appropriate rates, the computation in detail of the duties appropriate to each rate, and the summation of the duties as made. If the duties as finally liquidated are found to be greater than the duties estimated upon entry, an amendment is made and the difference collected. If the liquidated duties prove to be less than the estimated, then a corresponding refund is made up. The amended entries are collected at the cashier's desk. The refund is made through the disbursing department.

Senator PLATT, of Connecticut. You have been talking all the while about goods entered for consumption?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. How is it determined in the first instance whether goods belong in the free list or are dutiable?

Mr. COUCH. That is determined by the description of the goods in the invoice and entry.

Senator PLATT, of Connecticut. Do not questions arise where that would be in doubt? Are there not instances where it would be in doubt from the invoice whether the goods were free or dutiable?

Mr. COUCH. There are.

Senator PLATT, of Connecticut. How is it determined whether or not they are dutiable?

Mr. COUCH. If there were anything in the invoice that made it dutiable or any information in the possession of the collector we would take a deposit sufficient to cover the estimated duty. It sometimes happens that goods described as free, on the return of the appraiser prove to be dutiable, even where they have been entered free.

Senator PLATT, of Connecticut. Do free goods or samples thereof go to the appraiser's stores?

Mr. COUCH. Some free goods go largely there, but as to the greater portion of them it would be dock examination with, possibly, samples to the appraiser's stores.

Senator PLATT, of Connecticut. Do you think there is practically any evasion of duties by the invoicing and entry of goods as belonging to the free list?

Mr. COUCH. No, sir; I do not think that it rises to the measure of a practical question.

Senator PLATT, of Connecticut. Suppose there is doubt in the mind of the entry clerk as to whether goods described in the invoice are dutiable or free; what does he do?

Mr. COUCH. He would probably call it to the attention of the chief clerk of the division or the deputy, and if they were in doubt there might be a conference with me.

Senator PLATT, of Connecticut. Would there be an examination of the goods?

Mr. COUCH. There could not be. They would be on shipboard at the time the question came up.

Senator PLATT, of Connecticut. Would there be at any time?

Mr. COUCH. Unquestionably; but not until after we had completed the entry.

Senator PLATT, of Connecticut. How does that examination take place in case it is made?

Mr. COUCH. Take, for instance, the question of hides or calfskins. Parties enter them as calfskins, which are free, and the appraiser finds them to be hides. Those are examined either on the dock or in the warehouse, if they are warehouse goods. Those are retained by the inspector until the appraiser makes his examination. If the appraiser finds them to be dutiable, he then orders them to the stores, or a sufficient number of them to cover the question, or he requests the inspector to hold them.

Senator PLATT, of Connecticut. What is the distinction between an examiner and a deputy appraiser?

Mr. COUCH. A deputy appraiser is one in charge of the division. The examiner is the party who makes the actual examination of the goods under his supervision.

Senator PLATT, of Connecticut. And he may make it at the public stores or wherever the goods are?

Mr. COUCH. Wherever he is directed.

Senator JONES, of Arkansas. He reports to the appraiser?

Mr. COUCH. He reports to the appraiser, or he reports to the assistant appraiser.

Senator JONES, of Arkansas. That is what I mean.

Mr. COUCH. And then the reports are finally submitted to the appraiser.

When the liquidation is made, the final classification by the collector is done at that time. If the importer objects to the classification, he has ten days within which to make a protest and claim what he considers the correct classification. When such protest is made, the collector, through experts, reviews the work of the liquidating bureau; and if he finds that an error has been made in the original classification, and that the protest is valid under any ruling of the Department or decision of the board which is in force, he directs a reliquidation under the protest. If he finds that the entry has been correctly liquidated according to the regulations, he affirms the action in liquidation and sends all the papers—the entry, invoice, and protest—to the board of three general appraisers who have charge of questions of classification.

Senator PLATT, of Connecticut. The question of classification is not passed upon, then, by one general appraiser?

Mr. COUCH. No, sir; it is done by the board. If exception is taken to the action of the board, an appeal may be made, either by the collector or by the importer, to the circuit court, and there the action of the board is reviewed, and it may go from there to the circuit court of appeals.

Senator PLATT, of Connecticut. There it must stop, unless certified to the Supreme Court.

Mr. COUCH. Ordinarily. There are some cases which go to the Supreme Court.

Senator PLATT, of Connecticut. While the determining of value is going on, no attention is paid in the appraiser's office to the matter of classification?

Mr. COUCH. That has nothing to do with the question of values. He returns his classification at the same time that he does his value.

Senator PLATT, of Connecticut. May he change it from what has already been determined upon?

Mr. COUCH. No. His is simply advisory, but the action on reappraisement might change it in liquidation on certain lines of goods, as, for example, where the rate of duty depended upon value and the

appraiser's classification or finding of value was higher than the reappraisement sustained. The dividing line might come in between the two, and in that case it would change the rate of duty originally advised.

Senator PLATT, of Connecticut. Are controversies about the correct classification numerous?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. New questions are arising all the while?

Mr. COUCH. Constantly. We are getting decisions of the courts to-day on classifications that were made under the act of 1883. We are to-day paying certified statements amounting to hundreds of thousands of dollars on those classifications.

Senator PLATT, of Connecticut. Does the Secretary's office at Washington direct the collector as to proper classifications?

Mr. COUCH. It does, at times.

✓ Senator PLATT, of Connecticut. The Secretary's office rules upon questions of classification?

Mr. COUCH. Yes, sir. Prior to the establishment of the Board of General Appraisers all appeals went to the Secretary direct.

Senator PLATT, of Connecticut. But the Secretary has no power over the Board of General Appraisers in that respect?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. But merely over the collector?

Mr. COUCH. He can direct the collector to disregard their finding.

Senator JONES, of Arkansas. The Secretary can direct the collector to disregard the action of the Board of General Appraisers?

Mr. COUCH. Except as to that particular case. If the board should make a classification to which the Secretary did not agree, and the time for an appeal lapsed before the discovery was made, the Secretary might instruct the collector to disregard that finding and send up other cases. Then they would appeal those to the courts.

Senator PLATT, of Connecticut. The collector is always under the direction of the Secretary of the Treasury as to whether he shall take an appeal from the board upon classification or value?

Mr. COUCH. No; he may take an appeal of his own motion, but he would be responsive to a direction of the Secretary with reference to all matters of classification.

Senator PLATT, of Connecticut. The Secretary would not direct an appeal on a question of value?

Mr. COUCH. That is a question which is moot at the present time. It is one of the questions in dispute just now.

Senator PLATT, of Connecticut. Does it ever occur that, after the question of classification has been submitted to the appraiser and he has decided it, the matter goes to the collector for decision, with a hearing before the collector?

Mr. COUCH. That occurs frequently, particularly when a new law goes into effect.

Senator PLATT, of Connecticut. Is it the right of the importer to have a hearing before the collector?

Mr. COUCH. Yes; he has a right to present his case to the collector. The collector is the recognized classifying officer, and he is entitled to make such examinations as he deems necessary to satisfy himself with reference to the classification, either by calling together the experts of the appraiser's office or the naval office, or calling in the importers. Those examinations are of frequent occurrence when we are administering a new law.

Senator PLATT, of Connecticut. Do you understand that the appraiser and his assistants and the officials directly under him are a part of the custom-house, or are independent of it?

Mr. COUCH. They are a part of the customs service, but at this point they are independent of the collector's office, except that they can act only upon such matters as are referred to them by the collector.

Senator PLATT, of Connecticut. If the collector is satisfied that the board of appraisers has made a classification which subjects the importer to the payment of duties higher than he should be required to pay, what becomes of the case?

Mr. COUCH. If the appraiser should return a higher rate of duty than that judged by the collector, the collector would accept it, but the importer might challenge it and appeal to the courts. On the other hand, if he returns a lower classification—a lower rate of duty than the collector judged to be correct—the collector would take an appeal.

Senator PLATT, of Connecticut. Is the classification made up by the board of appraisers or by one appraiser?

Mr. COUCH. That is the Board of General Appraisers.

Senator PLATT, of Connecticut. Does one appraiser make the classification?

Mr. COUCH. No, sir; it is only the board. Bear in mind that there are two distinct functions in the general appraisers. One is the appraisement of values, which is made under section 13. All that work, covered by section 13, is done before liquidation. The other is under section 14, relative to classification and to excessive payments. All that work is done subsequent to liquidation. It is with reference to this subsequent work that we are now inquiring.

Senator PLATT, of Connecticut. Suppose the appraiser returns a classification of the goods which the collector thinks is incorrect and subjects the importer to too high duties, and the latter has a hearing in this office and the collector decides that the classification of the appraiser is wrong and that the goods should have been classified so that they would be subject to a lower duty. What may be done after he renders his decision in that case?

Mr. COUCH. We have a case of that kind which will illustrate. The appraiser returned what is called synthetic indigo for duty. The tariff law provides for indigo *eo nomine*, without reference to its source. Indigo is in fact produced from the indigo plant, and it is also produced from coal tar. Indigo derived from coal tar is what is described as synthetic indigo.

Senator PLATT, of Connecticut. Or artificial indigo.

Mr. COUCH. It is no more artificial than the other. The appraiser returned that for duty. When it came before the collector we recalled the fact that a similar question had been passed upon in the courts with reference to synthetic alizarine way back under previous laws, where the law provided that alizarine should be free. Alizarine is produced from the madder plant. Synthetic alizarine is produced from coal tar. The two cases stood precisely alike. We got out the court case and went through it, and the collector decided that under that court case this article should be admitted free. It was indigo. All the experts declared that it was indigo. The appraiser himself declared that it was indigo, and the chemist was unable to distinguish the difference between the two indigos unless he had the history of the case. The matter was brought to the attention of the Department,

and they instructed us to take the synthetic indigo for duty, which we are doing to-day.

Senator JONES, of Arkansas. That is a matter of classification?

Mr. COUCH. It is a matter of classification.

Senator PLATT, of Connecticut. If the collector disagrees with the appraiser, the matter may be and is submitted to the Secretary of the Treasury?

Mr. COUCH. Yes.

Senator PLATT, of Connecticut. And it is ruled upon by him?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. And the collector follows the ruling of the Secretary of the Treasury?

Mr. COUCH. He follows the Secretary's instructions.

Senator JONES, of Arkansas. If the importer is dissatisfied with that, his remedy is to appeal to the Board of General Appraisers?

Mr. COUCH. Yes, sir. The importer, of course, would not be dissatisfied with a lower rate of duty as a rule, but I have known importers to protest against a lower rate of duty and go to the courts to sustain a higher rate.

Senator PLATT, of Connecticut. After the collector acts on the direction of the Secretary and classifies it as what—as a preparation of coal tar?

Mr. COUCH. I think that was it.

Senator PLATT, of Connecticut. After the collector acts on the instructions of the Secretary of the Treasury, then the importer still has the right of appeal to the courts, or to the board of appraisers and from them to the courts?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. So the question of indigo is now on the way to determination by the courts?

Mr. COUCH. Yes, sir.

Senator JONES, of Arkansas. Has it been passed upon by the Board of General Appraisers?

Mr. COUCH. I think not. I think it is waiting there.

Mr. BIDWELL. It is before them now.

Mr. COUCH. Yes.

Senator PLATT, of Connecticut. Is the fact that the opinion of the collector on classification differs sometimes from that of the appraiser a matter which creates any friction between the collector's office and the appraiser's office?

Mr. COUCH. Oh, not necessarily. There may be a little bantering sometimes between the clerks.

Senator PLATT, of Connecticut. To recur to the bond, which is called the ten-day bond, all packages not ordered into general stores are upon that bond delivered to the importer?

Mr. COUCH. The bond is practically a string tied to the packages.

Senator PLATT, of Connecticut. If it should be found in the package sent to the appraiser's stores that there has been an undervaluation, and a consequent advancement of value is made, and the importer declines to deliver the rest of the packages when called upon, how can the Government be assured that the undervaluation does not run through the packages in the hands of the importer?

Mr. COUCH. If the packages delivered to the importer contained the same description of goods as those sent to the public stores, the examination of the goods in the public stores would cover the advance on all goods of the same grade in packages not sent. The necessity

for ordering in packages would ordinarily be in cases where the packages not ordered in contain some descriptions of goods not included in the goods examined by the appraiser; or they might be ordered in for other reasons. It sometimes happens that the goods ordered into the public stores do not tally with the invoice. Then we would ordinarily order the other cases in to see if there had been a mismarking of cases, a matter which occurs every once in a while.

Senator PLATT, of Connecticut. Suppose there are ten packages of stockings in the invoice. One package is ordered to the public stores. It is found that the stockings in that package are undervalued 20 per cent. Does the appraiser advance the goods in all the packages?

Mr. COUCH. In all the packages, if the description of the stockings be the same in all; but if there should be a different description or a different grade, or stockings of a different price, then he would probably order them in before he would make the advance.

Senator PLATT, of Connecticut. If he ordered them in, he would not get them, as the practice goes?

Mr. COUCH. He might, and he might not.

Senator PLATT, of Connecticut. Is it not a fact—

Mr. COUCH. The fact of the case, when you get right down to it, is that you can no more hold the goods here for ten days after they are landed in a busy season than you can hold the ship forty-eight hours before you allow her to discharge. You passed a law allowing them to discharge a vessel as soon as she comes up here. She pours her cargo onto the dock. Just the same pressure of business that compels that condition is compelling the rapid distribution of goods throughout the country. In other words, you have a Niagara to deal with.

Senator PLATT, of Connecticut. Is it not a fact, then, that the importer does not deliver the packages which have already passed into his hands if demand is made upon him?

Mr. COUCH. Very frequently that is true. It is true in the majority of cases, but not in all.

Senator PLATT, of Connecticut. Is it not almost always so? Is it not a rare thing that the importer produces the package?

Mr. COUCH. On consumption entries I should say it was the exception. On warehouse entries they frequently produce them.

Senator PLATT, of Connecticut. "On consumption entries."

Mr. COUCH. Consumption entries indicate the goods that are in immediate demand. Warehouse entries indicate goods that are expected to be required within a few weeks or months.

Senator PLATT, of Connecticut. If, then, the goods in the nine packages which have passed into the hands of the importer are undervalued, how can the Government collect the proper duty on those goods?

Mr. COUCH. Probably in that individual case there would be some difficulty, because there would be difficulty in proving the undervaluation. I am speaking of cases where the goods are not covered by the goods examined. The practical working of that would be this: If we found that the party did not respond, and there was a question of undervaluation in it, on the next importation he had the whole of his importation would go into the stores. He would not get any free delivery until the goods were examined. That is the way we practically meet the difficulty.

Senator PLATT, of Connecticut. Have any of those bonds ever been put in suit?

Mr. COUCH. There is a case in suit now. It has been in suit for the last four years, not having been reached yet.

Senator PLATT, of Connecticut. Has there been any decision of the Secretary of the Treasury or any opinion by the Secretary of the Treasury or the Attorney-General to the effect that unless the goods are produced the Government can not recover on the bond?

Mr. COUCH. I do not know of any decision or opinion just in that form. There have been decisions that appraisements can not be made except in the presence of the goods.

Senator PLATT, of Connecticut. The bond is a penal bond?

Mr. COUCH. The bond is a penal bond.

Senator PLATT, of Connecticut. The rule of law is that the plaintiff in a suit on a penal bond can only recover for the damage he can show.

Mr. COUCH. There is where the difficulty comes in—to show the damage.

Senator PLATT, of Connecticut. The Government can not show the damage unless the goods are produced, so that it can be determined that they are undervalued.

Mr. COUCH. There is where the difficulty comes in.

Senator PLATT, of Connecticut. Do you not think that in fact a good deal of undervaluation escapes in this way?

Mr. COUCH. It may escape in that way, possibly, but not very much if the appraisers are up to date.

Mr. BIDWELL. The package which goes to the public stores represents the invoice. Undervaluation is discovered through competition more than in any other way; that is, if a merchant in Chicago is underselling everybody else on a line of hosiery, immediately the special agent makes an investigation, or the Department does through special agents. That is usually started on the other side and followed up.

Mr. COUCH. A great deal of investigation is made as the result of information furnished by rivals, frequently anonymously.

Senator PLATT, of Connecticut. If the appraiser finds that goods in the packages sent to the public stores are undervalued, you say he advances all goods of a similar description on the invoice contained in the other packages?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. How does the Government collect the duties upon those goods thus advanced?

Mr. COUCH. The law requires 10 per cent to be sent in, and that is held to be a valid appraisalment for all the goods covered by the invoice. You will notice in the make-up of the laws—if you will pardon me for a little digression—that they are all made as if every invoice covered a particular item of goods of one description and one grade. In point of fact, when you come to the case goods, dry goods, chemicals, and various other case goods, an invoice may cover fifteen or twenty descriptions of goods with as many different rates of duties, but the law simply requires that one package in ten shall be sent to the appraiser's stores to make the appraisalment of value.

Senator PLATT, of Connecticut. Suppose that from the fact of undervaluation in the package in the public stores all goods of a similar description in the invoice are advanced, and the importer says he will not pay the advanced rate except upon the goods found in the package; what then?

Mr. COUCH. Then we should report the case to the district attorney for suit. If he does not pay the liquidated duty within ten days or

twenty—I forget now just what the term is, but it is a certain number of days—the matter is reported to the ninth division and the case made up and sent to the district attorney.

Senator PLATT, of Connecticut. To have suit brought on it?

Mr. COUCH. To collect the additional duty.

Senator PLATT, of Connecticut. And the goods that are in the public stores are held for it?

Mr. COUCH. Yes, sir; those are held. If the appraiser makes an advance, and the party does not protest, the advance holds. It becomes final and conclusive, and the duty based upon it would be collected as duty not heretofore paid.

Senator PLATT, of Connecticut. Is it not a fair presumption if in the package in the appraiser's stores it is found that certain goods are largely undervalued, that goods in the other packages other than those of the same description are also undervalued?

Mr. COUCH. That would naturally follow, and goods of the same description would be advanced.

Senator PLATT, of Connecticut. Is it not a fair presumption that other goods not of the same description in the other packages may be undervalued?

Mr. COUCH. Not necessarily. I have seen multitudes of invoices where a single item in an invoice of many packages would be returned as undervalued and all the rest as correct.

Senator PLATT, of Connecticut. If a man were deliberately——

Mr. COUCH. If a man is deliberately defrauding, then you have to go for him in every possible way; but in a great many cases it is simply inadvertence. In other words, if you administer on the basis that every man engaged in business is a scoundrel, you have to work on one line. If you administer on the basis that the body of business men are reasonably honest and that the scoundrel is the exception, then the administration should be on an entirely different line.

Now, in practical administration we have to discriminate upon the information we get. If we get information that a certain party is engaged in crooked practices, we put all of the resources of the law to bear upon the case.

Senator PLATT, of Connecticut. Is it not true, from your experience here, that there are a good many importers who are trying to get their goods in at an undervalued price?

Mr. COUCH. I have not any question that there are importers who are dishonest; I doubt not that every man in business is striving all he can to get his duties as low as his neighbor gets them; but I know that there are very many importers at this port, both of purchased and of consigned goods, who are very prompt in giving information with reference to any discrepancy in their importations. It is not an infrequent matter, with reference to those parties, that they have come and given information after their entries had been liquidated, when they discovered an undervaluation in settling up their own accounts, and on that information have paid additional duties.

Senator PLATT, of Connecticut. Is it not frequent here that importers complain that they can not do business because they meet in the market goods at prices which show that they must have been entered at very much below what they entered theirs at?

Mr. COUCH. Those complaints we have.

Senator PLATT, of Connecticut. What proportion of the entries for consumption are consigned goods as compared with those which have

been purchased and may be called purchased goods, having been actually purchased?

Mr. COUCH. In some lines a majority of the goods are consigned. I guess in Lyons silk probably a majority are consigned goods. Perhaps in the St. Gall goods the majority may be consigned. Consignment has been a matter of growth for a good many years.

Senator PLATT, of Connecticut. Who is the consignee ordinarily in the case of consigned goods? Is it a commission merchant? Are they consigned for sale in this country or are they consigned to parties who are interested in the business of manufacturing or producing in other countries?

Mr. COUCH. Both.

Senator PLATT, of Connecticut. Which is the larger, the commission-house consignment or consignment to parties who are simply the partners or agents of the manufacturers abroad?

Mr. COUCH. That would be a difficult question for me to answer. I could only give an impression on that point.

Senator PLATT, of Connecticut. Has it not grown more and more of late to be the case that a manufacturer in a foreign country has a house in New York to which he consigns his goods?

Mr. COUCH. Yes, sir; that has been growing for thirty years past. There is a business of this kind which has grown up. You will remember that many years ago business in this country was done largely in the great trade centers; that is to say, country merchants and the small jobbers would come once or twice or three times a year to New York or Philadelphia or Boston and buy their stock of goods and then go home. Of late years you find that the case is reversed, and the houses of the great centers are sending their agents to all the small places throughout the country and taking orders by samples. What the jobbers and importers and manufacturers in New York are doing here throughout the country, other manufacturers are doing across the water. They are sending their travelers all over the country taking orders, even down to detail orders in many cases, and then they fill those orders through their agents here. Those orders are taken on the market here.

Senator PLATT, of Connecticut. In the case of goods consigned to the purchaser, what he paid for them—the purchase price—is an important element in determining their value, and helps to fix the value easily?

Mr. COUCH. Every legitimate transaction in the market, a sale for cash, or its equivalent, is an element in the establishment of market value; but no single transaction establishes market value, as I understand it. Therefore the importance of having in your invoice an exact statement of the truth. Hence I understand your requirement that all invoices of actual purchasers shall set forth the actual facts of the purchase, the party from whom purchased, the place where, the time when, the purchase was made.

Senator JONES, of Arkansas. And the price paid.

Senator PLATT, of Connecticut. If the goods are consigned to an agent or partner in this country there is no purchase, nor is there a purchase price?

Mr. COUCH. There is frequently, but in the cases of which you are speaking—in these specialties where this trouble all comes—there is no purchase, except it may be, as I stated to you, the retail disposition through the small markets.

Senator PLATT, of Connecticut. Are there not a variety of goods imported, claimed to be made for the American market only, which it is claimed have therefore no actual market value in the principal markets of the country of exportation?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. Is there a good deal of that or a little of it?

Mr. COUCH. I can not tell as well as the appraiser could. That would not come to me or to this office directly. It would come only incidentally through conversation.

Senator JONES, of Arkansas. I have not the point clearly in my mind, and I should like to get it, if I can. I do not remember just what the expression of the collector was, in informal conversation, in talking about one-tenth of the goods being sent to the appraiser's stores and ascertaining in that case, say, that there has been an undervaluation. Now, as I understand, when the other nine cases are taken out by the importer and go into general consumption, there is a liquidation made at that time, and the customs duties are paid on the valuation that was had in the preliminary examination.

Mr. COUCH. There is an estimate made at that time.

Senator JONES, of Arkansas. It is not considered a liquidation?

Mr. COUCH. No, sir.

Senator JONES, of Arkansas. The liquidation is made after the inspection?

Mr. COUCH. The liquidation is made after the inspection.

Senator JONES, of Arkansas. If, after that inspection, there is an ascertained undervaluation, the advance would be made to apply to all the goods of the same character in the packages that had been taken out, and the liquidation is made on that basis?

Mr. COUCH. Yes.

Senator JONES, of Arkansas. That is the point I did not quite understand. There is another point which was brought out a moment ago. A man is required to present the invoice and to state, among other things, the price which was paid for the goods?

Mr. COUCH. Yes, sir.

Senator JONES, of Arkansas. If the goods have materially decreased in value after the purchase is made abroad and before shipment, he is not allowed to get any benefit of that fall in the price?

Mr. COUCH. No, sir.

Senator JONES, of Arkansas. If there has been a change in the market price of the goods between the time of purchase and the time of shipment?

Mr. COUCH. He is not.

Senator JONES, of Arkansas. It must be given as at the time of the purchase. In what section of the law is that provided for?

Mr. COUCH. The matter that holds the importer to the price paid is the last clause of section 7. The matter that fixes the basis of dutiable value is section 19.

Senator JONES, of Arkansas. The latter section says:

That whenever imported merchandise is subject to an ad valorem rate of duty, or to a duty based upon or regulated in any manner by the value thereof, the duty shall be assessed upon the actual market value or wholesale price of such merchandise as bought and sold in usual wholesale quantities, at the time of exportation to the United States, in the principal markets of the country from whence imported, and in the condition in which such merchandise is there bought and sold for exportation to the United States, or consigned to the United States for sale, etc.

Now, I understand that provision of the law is absolutely disregarded because it is considered in conflict with the last paragraph of section 7.

Mr. COUCH. Yes, sir. Section 7 nullifies that wherever the market falls in reference to purchased goods.

Senator PLATT, of Connecticut. You have been speaking of imported goods entered for consumption. What proportion of imported goods does that embrace—I do not mean exactly, but approximately?

Mr. COUCH. At this port?

Senator PLATT, of Connecticut. Yes.

Mr. COUCH. Taking the whole range of importations, it includes a majority.

Senator PLATT, of Connecticut. What other entries may there be besides an entry for consumption?

Mr. COUCH. The only other entry that is made is a warehouse entry. There is a transaction called an entry which is simply a transit.

Senator PLATT, of Connecticut. Goods landed here for transportation to some other port. You do not call that an entry. You do not call it anything.

Mr. COUCH. It is not a statutory entry. We call it an entry in common parlance. There are two entries provided in the statute.

Senator PLATT, of Connecticut. One for consumption and one for warehouse?

Mr. COUCH. One for consumption and one for warehouse.

Senator PLATT, of Connecticut. Take the warehouse entry, and what is done with the goods then?

Mr. COUCH. On warehouse entry the goods are retained in the custody of the collector under a warehouse bond, which is given by the importer.

Senator PLATT, of Connecticut. What does the bond provide that he shall do?

Mr. COUCH. It provides for the payment of all duties which may be found due upon those goods.

Senator PLATT, of Connecticut. Also warehouse charges?

Mr. COUCH. That is a matter with the warehouse.

Senator PLATT, of Connecticut. His bond does not include them?

Mr. COUCH. I am not satisfied whether or not that is specified in the bond.

Senator PLATT, of Connecticut. Have we Government warehouses?

Mr. COUCH. We have not here. We have the public stores.

Senator PLATT, of Connecticut. He does not give any bond for goods that go into the public stores?

Mr. COUCH. No, sir. The warehouse bond goes to warehouse class 3 usually. The goods are treated after that bond is given just the same, so far as entry and liquidation are concerned, and the processes of protest and appeal are just the same as with consumption goods.

Senator PLATT, of Connecticut. When are they appraised, if ever?

Mr. COUCH. Immediately upon importation. It is just the same. The only difference is this: In the case of consumption they pay the estimated duty to the cashier. In the case of warehousing, instead of paying the duty they give a bond, the warehouse bond, and instead of the goods being delivered to the merchant they are ordered to be transferred to the warehouse under the bond.

Senator JONES, of Arkansas. And the duties are paid when the goods are taken out?

Mr. COUCH. The duties are paid when the goods are taken out. But the duties are assessed just the same as in consumption entries.

Senator PLATT, of Connecticut. When is the value of the goods ascertained?

Mr. COUCH. At the same time as in the case of consumption entry. The designated packages are ordered to the public stores just the same as on consumption entry.

Senator PLATT, of Connecticut. And the other nine go——

Mr. COUCH. To the warehouse.

Senator PLATT, of Connecticut. So no question which can not be settled can arise as to undervaluation in the other packages that have not gone to the public stores?

Mr. COUCH. There may, possibly. That would occur in this case: They are allowed to withdraw goods from the warehouse on payment of the deposit duty before liquidation. When they do that they give the same bond on the withdrawal that they give on an import entry.

Senator PLATT, of Connecticut. But usually they put the goods in there and they stay?

Mr. COUCH. The ordinary practice is to hold them there until the liquidation is determined, or at least a portion of them.

Senator PLATT, of Connecticut. They may hold them there for three years?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. The persons do not have to pay the duties until they take the goods out?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. But in the meantime the duties have been liquidated?

Mr. COUCH. The duties have been liquidated; all questions of value have been settled; and if there is any dissatisfaction with the classification, questions of classification have been put on their way.

Senator PLATT, of Connecticut. You receive at this port large quantities of goods the final destination of which is some interior point?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. Can you give approximately any idea of the proportion of such goods compared with those that are for consumption here?

Mr. COUCH. The number of I. T. entries that are passed here considerably exceeds the number of warehouse entries.

Senator PLATT, of Connecticut. But, of course, as to bulk or value you can not say.

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. What has this port to do with that class of goods?

Mr. COUCH. There is a preliminary, or an I. T. entry, so called, made here.

Senator JONES, of Arkansas. What do I. T. stand for?

Mr. COUCH. Immediate transportation, without appraisement.

Senator PLATT, of Connecticut. That entry is merely to keep track of them?

Mr. COUCH. Merely to keep track of them and to make a charge against the common carrier's bond for the safe-keeping and delivery of the goods to the importer at the ultimate port.

Senator PLATT, of Connecticut. They are then forwarded immediately in what manner?

Mr. COUCH. They are forwarded in locked compartments or locked cars, as the case may be, with an accompanying manifest, consigned to the collector at the port of destination. They are accompanied by a copy of the entry made here and the invoice that is presented here.

Senator PLATT, of Connecticut. The officers at this port have nothing to do with determining their value?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. Or collecting the duties?

Mr. COUCH. No, sir. We do not know the contents any further than what is necessary to identify the packages. Of course there is a statement of contents that they get from the invoice.

Senator PLATT, of Connecticut. Where are those goods appraised?

Mr. COUCH. They are appraised at the port or point of destination.

Senator PLATT, of Connecticut. And the duties are liquidated at that port?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. How are the duties determined at those ports where there is no appraising officer?

Mr. COUCH. Either the collector or the surveyor, or some party designated by them, acts as appraiser.

Senator PLATT, of Connecticut. If goods are advanced in value by the appraiser or by some appraising officer acting in that capacity, what appeal is there from the action of such person?

Mr. COUCH. The same as in the case of direct importation, except that the appeal is made at that point instead of here.

Senator PLATT, of Connecticut. Are not all the members of the Board of General Appraisers resident at New York?

Mr. COUCH. I think they are all located here, and I think all appeals on classification are determined here. On reappraisement they send out one of their number to the different ports at different times.

Senator PLATT, of Connecticut. Do they send them all over the country?

Mr. COUCH. They send them wherever they are called for.

Senator PLATT, of Connecticut. Take Chicago, for instance. Goods are landed here for immediate transportation to Chicago, and when they arrive there the process of appraising their value is set on foot. Do cases of dispute come from that city to this port for settlement?

Mr. COUCH. Do you mean in the matter of value?

Senator PLATT, of Connecticut. Yes.

Mr. COUCH. I could not answer positively, but ordinarily if there is a reappraisement an appraiser goes to Chicago.

Senator PLATT, of Connecticut. Suppose an appeal is taken from his action; would it come here for trial?

Mr. COUCH. It might come here, or the board might go there. I can not answer the question definitely.

Senator PLATT, of Connecticut. You do not know whether the board travels?

Mr. COUCH. My impression is that ordinarily the board does not travel; only the single appraisers.

Senator PLATT, of Connecticut. Would the packages be sent here?

Mr. COUCH. They could examine on certified samples, and it would probably be done in that way.

Senator PLATT, of Connecticut. I suppose you are not so familiar with that practice. We can ascertain that point from the general appraisers.

✓ Mr. COUCH. They do send packages here. I know that from the fact that we have to handle the packages, receive them, and send them to the board of appraisers, and return them again. We get bales of tobacco from Florida; they come up by express; they are reported to the collector; he sends them to the board, they make their examination, and when they are through the bales are returned to the collector in Florida. From this instance I have inferred that the board is not in the habit of going to other ports.

Senator JONES, of Arkansas. How are I. T. goods handled?

Mr. COUCH. They are delivered from the ship to the bonded cart or lighter and taken by them to the depot or railroad station, where they are placed under the common carrier's bond.

Senator JONES, of Arkansas. Who supervises that?

Mr. COUCH. The customs inspector.

Senator JONES, of Arkansas. They take the necessary steps to prevent any fraud by failure to send the goods through?

Mr. COUCH. Yes. There has been no trouble about the handling of the goods.

Senator PLATT, of Connecticut. In the matter of the number of entries, you think that more entries are made for immediate transportation than for consumption and warehouse combined?

Mr. COUCH. No; I did not say consumption and warehouse combined.

Senator PLATT, of Connecticut. More than for warehouse?

Mr. COUCH. More than for warehouses.

Senator PLATT, of Connecticut. Is that business increasing at this port?

Mr. COUCH. The I. T. business?

Senator PLATT, of Connecticut. Yes.

Mr. COUCH. Oh, yes; steadily. It started in with a few hundred entries, and we are now up to thirty or forty thousand entries a year.

Senator PLATT, of Connecticut. To what portion of the country are the goods forwarded? Does it embrace the whole country?

Mr. COUCH. Pretty much.

Senator PLATT, of Connecticut. Or only limited areas?

Mr. COUCH. Pretty much the whole country. They are forwarded heavily to Chicago, St. Louis, and Cincinnati, and then to any number of small places.

Senator PLATT, of Connecticut. Are they ever transported clear across the continent to San Francisco?

Mr. COUCH. Yes, sir; to San Francisco, and from San Francisco to New York.

Senator JONES, of Arkansas. Are they sent along the Atlantic seaboard at all—to Charleston or New Orleans?

Mr. COUCH. We send any quantity of I. T. goods to Philadelphia. Senator PLATT, of Connecticut. You have nothing to do with the appraisal of the goods here or the liquidation of the duty. That takes place at the ultimate port?

Mr. COUCH. At the ultimate port, as if the vessel had made its voyage to that port.

Senator PLATT, of Connecticut. Do you know, as a matter of fact and practice, whether or not the action of the officers at the ultimate port in the matter of classification and in ascertaining the value of the imported goods corresponds with the action of the officers at this port?

Mr. COUCH. I do not.

Senator PLATT, of Connecticut. Suppose it to be true that certain

classes of goods are valued at one rate here and at another rate at the port of ultimate destination, or classified under one paragraph here and under another at the ultimate port. Is that not both an injustice to the merchant and a loss to the Government?

Mr. COUCH. Yes.

Senator PLATT, of Connecticut. Is it not generally understood that importers in certain instances are resorting to the method of the immediate transportation of goods to interior points for the purpose of getting better rulings as to value and classification than they can get here?

Mr. COUCH. I do not think anyone would admit that as a reason.

Senator PLATT, of Connecticut. You mean that no importer would admit it?

Mr. COUCH. No; he would not.

Mr. BIDWELL. We think so.

Senator PLATT, of Connecticut. Have not instances come to your knowledge where a better classification or a better ascertainment of value occurred for the importer at other points than would have been obtained here?

Mr. COUCH. I do not recall any specific instance, but I have in a general way information of that kind.

Senator PLATT, of Connecticut. Can you think of any way in which by law classification or the ascertainment of value can be made uniform? Is there any lack in the law at this time which might be remedied, or have you not thought of the subject?

Mr. COUCH. The greatest trouble is with goods subject to ad valorem duty. Goods that are subject to a specific duty, where the amount of the duty is determined by weight, gauge, or measurement, could probably be handled with reasonable uniformity at any of the ports, but when you come to goods subject to an ad valorem duty, you must consider the great variety and the many classes of those goods and the fact that no one man is competent to determine market values on more than a limited class or variety. The only suggestion I can make with reference to the law in the matter would be to provide that appraisement of values shall be made at certain leading ports in the country where the Government has an efficient body of appraisers and examiners to pass upon the question.

I do not believe it is possible to send ad valorem goods to small ports like Bridgeport, New Haven, Springfield, Rochester, and a hundred other small places that might be named, and have anything like uniform appraisement. But if the ad valorem appraisements were confined to the leading ports, the great centers, and there was a system of supervision under the general appraisers such as appears to be contemplated in section 13, if that was enlarged and improved, there would be practical uniformity of action in the matter of appraisements.

In the matter of classifications, we have constant guides in the published reports of the general appraisers and the decisions of the courts as promulgated by the Department, with their special instructions thereunder. That is a matter which could be followed by intelligent collectors even in small ports. I think that the great problem—the sweeping problem in the whole matter—is to get uniform and equitable appraisements of ad valorem goods.

Senator PLATT, of Connecticut. It is not possible to have that appraisement made at the port where the goods are landed. If we allow the immediate transportation system, it is not possible to have

the appraisement and liquidation made at the port where the articles are landed.

Mr. COUCH. Not if you allow ad valorem goods to go through in that way.

Mr. BIDWELL. Ad valorem goods constitute the large portion.

Mr. COUCH. The great debate is on the question of ad valorem goods.

Senator PLATT, of Connecticut. Those are the only goods as to which the question of value arises?

Mr. COUCH. Certainly.

Senator PLATT, of Connecticut. The question of classification may arise in case of specific duty. I find from this list that Rockville, Conn., a little place of perhaps 10,000 inhabitants, situated inland, is a port of immediate transportation to which goods can be sent.

Mr. COUCH. That is where the silk factories are?

Senator PLATT, of Connecticut. No; the woolen factories. The nearest collector is at Hartford. There is really no one, as I understand it, at the town of Rockville to take charge of such matters. It all has to be done from the collector's office in Hartford.

Mr. COUCH. You have made places, which hitherto have been simply ports of delivery, subports of entry under the I. T. act.

Senator PLATT, of Connecticut. If there were any unnatural importations of this class of goods, do you think it would be discovered at the custom-house in New York? In other words, if goods really for consumption in New York were landed here for immediate transportation to an interior point (goods not exactly suitable to that locality), do you think it would be discovered here that it was an unsuitable shipment?

Mr. COUCH. It might be discovered in rare instances. Ordinarily not. That business is done with a rush. A vessel comes in and pitches her cargo on to the dock as soon as she lands. The transportation companies are after the goods to get them off, and the agents are here rushing the entries through and getting the permits down. An examination or investigation of that kind is not practicable.

Senator PLATT, of Connecticut. What is the surveyor's office?

Mr. COUCH. That is the outdoor office of the collector.

Senator PLATT, of Connecticut. The naval office is disconnected from the collector's office?

Mr. COUCH. The naval office is disconnected, and has to do with everything in the collector's office that involves the collection or payment of money.

Senator PLATT, of Connecticut. It is independent?

Mr. COUCH. It is independent.

Senator PLATT, of Connecticut. But the surveyor's office is a part of the collector's office?

Mr. COUCH. It is a separate office, but he is made subordinate to the collector and receives his instructions from him.

Senator PLATT, of Connecticut. Duties upon certain kinds of goods are collected on the wharf. The ascertainment of value and the liquidation of duties are made without the goods being put into the public stores?

Mr. COUCH. Yes, large quantities of them; for instance, sugar. All that they send to the public stores are samples. As to a good many of the coarser, heavier goods, there is simply a wharf examination, and samples are taken.

Senator PLATT, of Connecticut. Take imported iron.

Mr. COUCH. That is very seldom sent to the public stores. There might be some ironware sent there, but not bar iron.

Senator PLATT, of Connecticut. That is true in regard to stone and the heavier articles?

Mr. COUCH. As to any quantity of them.

Senator PLATT, of Connecticut. Who examines those goods?

Mr. COUCH. The appraiser.

Senator PLATT, of Connecticut. By sending an examiner from his office?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. And if the examiner thought the goods were not invoiced at the proper value he would make a report?

Mr. COUCH. He would simply decline to sign the permit, and would direct the inspector to hold the goods for further examination or send them to public stores, as the case might be.

Senator PLATT, of Connecticut. And the ascertainment of value and the classification would proceed in all respects with reference to those goods the same as to the other goods of which you have spoken?

Mr. COUCH. The wharf would be the public store for the custody of the goods. Then there are other examinations which we give of machinery; that is, examination and appraisement are made after the machinery is set up in the factory.

Senator PLATT, of Connecticut. Have you any suggestions to make as to proposed improvements of the laws relating to the administration of the customs?

Mr. COUCH. I prepared some memoranda for the collector bearing particularly on the administration of this office, in which I make some suggestions with reference to section 7.

Senator PLATT, of Connecticut. Can you now submit that statement to the committee?

Mr. COUCH. I have submitted it to the collector.

Mr. BIDWELL. I have been all over the matter with Mr. Couch, and I will submit it to the committee as a suggestion from this office of certain changes.

At 2 o'clock p. m. the subcommittee adjourned until to-morrow, Wednesday, November 16, 1898, at 11 o'clock a. m.

CUSTOM-HOUSE,

*New York City, N. Y., November 16, 1898.*

The subcommittee met at 11 o'clock a. m.

Present: Senators Platt, of Connecticut, and Jones, of Arkansas.

#### STATEMENT OF JOSEPH J. COUCH—Continued.

Mr. COUCH. You were asking yesterday about the volume of I. T. entries. I have looked over the record, and I find that for the three years from July 1, 1893, to July 1, 1896, the number of warehouse entries was 74,398, and the number of I. T. entries during the same period was 85,690. Taking the three years 1895, 1896, and 1897, the number of warehouse entries for the three years was 59,074, while the number of I. Ts. for the same period was 91,045.

Senator PLATT, of Connecticut. The warehouse entries diminished and the I. Ts. increased?

Mr. COUCH. Yes, sir.

Senator JONES, of Arkansas. Would there be any trouble in stating the aggregate values, as you have stated the aggregate numbers?

Mr. COUCH. I think there would be, but it can be collated.

Senator JONES, of Arkansas. Will you please furnish that information?

Mr. COUCH. I will.

The statement referred to is as follows:

*Statement of the values of merchandise entered for warehouse and for immediate transportation without appraisement at the port of New York during the fiscal years ending June 30, 1893, to June 30, 1898.*

| Year.     | Warehouse.   | Immediate transportation. |
|-----------|--------------|---------------------------|
| 1893..... | \$70,644,489 | \$32,818,990              |
| 1894..... | 64,416,289   | 19,294,557                |
| 1895..... | 71,238,450   | 25,456,340                |
| 1896..... | 73,029,709   | 27,936,062                |
| 1897..... | 62,057,082   | 26,173,896                |
| 1898..... | 51,372,585   | 19,490,152                |

Senator PLATT, of Connecticut. I wish to ask you about the practice in the ascertainment of value in I. T. entries. Is it not a fact that usually at the port of ultimate destination, the smaller ports, the value is fixed according to the invoices?

Mr. COUCH. I can not answer the question, for I never see their liquidations. It is so reported.

Senator PLATT, of Connecticut. So far as you have hearsay knowledge in the custom-house, there is not much change in the values at small ports of destination?

Mr. COUCH. That is my information, by hearsay.

Senator PLATT, of Connecticut. All the rulings of the Treasury Department at Washington, I suppose, are printed and communicated to the smaller ports?

Mr. COUCH. All the printed ones.

Senator PLATT, of Connecticut. But the decisions here in the New York custom-house with reference to classifications and with reference to values never reach the smaller ports in printed form?

Mr. COUCH. Not unless they are matters of appeal. A decision that is a matter of protest and appeal would go into the records of the general appraisers, and their action on appeal is reported to the Department.

Senator PLATT, of Connecticut. Do you know how many ports there are besides New York where they have what may be called an independent bureau of appraisement? Have they one in Boston?

Mr. COUCH. One in Boston, Philadelphia, Baltimore, New Orleans, San Francisco, and Chicago.

Senator PLATT, of Connecticut. Those are all, as far as you can remember?

Mr. COUCH. Those are all I can certify to.

Senator PLATT, of Connecticut. In the other ports the ascertainment of values or the appraisal of goods is made by the collector or some ordinary official connected with the custom-house who is designated for that purpose?

Mr. COUCH. That is as I understand it.

Mr. BIDWELL. Take a port like Buffalo. How do you understand that that is conducted? That is a pretty big port.

Mr. COUCH. There is a collector there, no naval office, no surveyor, I think. I do not think there is an appraiser there.

Mr. BIDWELL. I think the deputy collector acts as the appraiser.

Mr. COUCH. You can get the offices from the Blue Book.

Mr. BIDWELL. Take a port like Buffalo, for instance. They would use in smaller quantity for consumption in the city of Buffalo almost all the classes of goods that we use here. For instance, these very embroideries. Take tobacco, as to which there is a great contention with respect to what is wrapper and what is filler; and all staples of that kind, which must be used in large quantities in those ports. If there is a technical and extreme system of appraisement in New York it ought to cover all such ports. Take, for instance, the city of Hartford. The big department stores and the dry-goods stores there use all the same kind of goods that are used here. If the method of appraisement changes with an Administration, as it does and as it has with this, where they have undertaken to ferret out all undervaluations and to advance the goods, it affects a port like this where it might not affect a port like Hartford.

Senator PLATT, of Connecticut. By way of illustration you yesterday mentioned the port of Bridgeport, Conn. Do you know whether parties who have had trouble about their valuations or classifications in New York have changed the place where they liquidate their duties from New York to Bridgeport?

Mr. BIDWELL. We have no definite knowledge to that effect.

Senator PLATT, of Connecticut. I have heard it.

Mr. BIDWELL. We have heard it. It seems to me that a suggestion might be made to the Department to take up that matter and put a man on it and ascertain the fact. If we find that the Strauss, for instance, who are large importers of china and ware of that description, are entering their goods at Newport News or Baltimore or Bridgeport, or even Philadelphia, there must be some reason for it, and it would be very easy for the Department to take up their entries at those points and compare them with the invoices entered here and see what is being done.

Senator PLATT, of Connecticut. In the smaller ports, I understand, there is nothing which corresponds to the public stores in New York, where goods are ordered into a building for examination?

Mr. COUCH. There may be; I do not know how that is; probably there are.

Mr. BIDWELL. I think they have a warehouse. In Buffalo I know they use a bonded warehouse.

Senator PLATT, of Connecticut. I saw yesterday that there was a port at a place in Vermont which I did not recognize, but it can not be possible that there would be any very complete machinery there for the examination of goods. Uniformity in classification and in the ascertainment of value and in liquidation is of the utmost importance to the business of the country as well as to the Government.

Mr. COUCH. There is no question about that.

Mr. BIDWELL. I heard, but I can not remember how I got the information, that since the advances were made by the appraisers here on Limoges ware, which I do not contend was not proper at all, they have been importing Limoges ware through Newport News.

Mr. COUCH. I have heard such a statement. I have no verification of it.

Mr. BIDWELL. There can be no reason for a merchant importing Limoges ware through Newport News except to get a different appraisement from that here.

Senator PLATT, of Connecticut. Can you make any suggestions of a change in the law by which uniformity of classification and ascertainment of values can be had?

Mr. BIDWELL. I think it is in the line of the work of the general appraisers, if perhaps they were accorded larger force and a better system, or by the creation of a department which under their direction should investigate just such things as we are talking about now. The scope of the work all comes under the general appraisers, if it was carried out.

Senator PLATT, of Connecticut. Does it occur to you that the system has been extended too much; that is, that too many places have been made supports of entry?

Mr. COUCH. We have held that view for a long time.

Mr. BIDWELL. That is undoubtedly true.

Senator PLATT, of Connecticut. In New York and the larger cities where there is an appraiser's division you are supposed to have people having expert knowledge with reference to almost all classes of goods?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. That is not true at the smaller ports, or, if so, it is only true to a limited extent?

Mr. COUCH. That is the way we understand it. You were speaking about the line of procedure to reach that matter. If you will notice in section 12, which provides for the appointment of the Board of General Appraisers, it is provided—

“They shall be employed at such ports and within such territorial limits as the Secretary of the Treasury may from time to time prescribe, and are hereby authorized to exercise the powers and duties devolved upon them by this act, and to exercise, under the general direction of the Secretary of the Treasury, such other supervision over appraisements and classifications for duty of imported merchandise as may be needful to secure lawful and uniform appraisements and classifications at the several ports.”

Eliminate for a moment the classification and hold to the appraisement. I suppose that the act contemplated that there should be a certain supervision by that board over the appraisements at the several ports, under such regulations as the Secretary of the Treasury might prescribe. But how far that has been put into working shape I do not know.

Senator PLATT, of Connecticut. You have connected with the custom-house in New York some special agents?

Mr. COUCH. They are distributed all over the country.

Senator PLATT, of Connecticut. There are a certain number here?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. Do their duties or their supervision extend beyond the port of New York?

Mr. COUCH. The special agents?

Senator PLATT, of Connecticut. There is another set of them under the Treasury Department in Washington?

Mr. COUCH. The special agents are all directly under the Treasury, and they are located with some permanence, for instance, here and at the principal ports, and then they are sent all around. They are the immediate officers of the Secretary, and they deal with such matters as are referred to them by the Secretary.

Senator PLATT, of Connecticut. Suppose that a merchant should complain to a special agent here that importers were getting their goods valued at an interior point at less than similar goods were valued at New York; would it be a part of his duty to investigate the matter?

Mr. COUCH. He would either investigate it or make a report of the fact to the Secretary and await instructions.

Senator JONES, of Arkansas. I wish to ask the collector a question. He made a statement which created the impression on my mind that the idea was that questions of valuation settled in New York ought in his opinion to govern other ports or subports in the vicinity, or something of that kind. I did not catch exactly what he meant by that statement, and I wish to ask him about it.

Mr. BIDWELL. Of course New York, collecting 75 per cent of the customs revenues of the United States, naturally handles all classes of merchandise imported, and on account of the volume of business here the Department is enabled to install a department and examiners who are experts in their various lines of goods. For instance, there is an expert examiner of linens, of silks, of wools, and of hardware. The hardware examiner has nothing whatever to do with linens. The point I wish to bring out is that on account of the volume of business handled here we can have experts in the various lines who are enabled, by their experience and by reason of handling these articles especially, to be experts in determining their value. The same condition might exist in Chicago, but not to so great an extent, and in Philadelphia and in Boston, but it could not possibly exist in ports like Buffalo or Cleveland.

Senator JONES, of Arkansas. How could you have an appraisement made in New York which could govern in any port outside of New York? It seems to me the appraisement must be made as to each individual entry. When an entry is made that goes through New York to Buffalo, for instance, unless the custom-house officers here could examine it, unless it was entered for appraisement here before it went to Buffalo, I do not see how it would be possible to make an appraisement at New York to govern at Buffalo, because an item invoiced here and appraised here might differ totally from an invoice of the same goods or the same character of goods at Buffalo. It might differ in quality, texture, or in value.

It does not seem to me it would be possible to have an arbitrary rule by which, for instance, all sugar should be appraised or all tobacco should be appraised. There is a difference in each invoice. It seems to me the purpose of the law is that each invoice shall be appraised by itself and not with any other invoice. I can understand how it might be that I. T. goods passing through New York, for instance, could be opened and appraised in New York before they went to the subport to have the duties liquidated and the goods finally delivered. That might be practicable, because you could examine the identical goods here; but how you are to have an appraisement without an inspection by the inspector of the particular goods, or one case in ten, is beyond my comprehension. The law recognizes that fact, because it requires that one package in ten shall be examined. The goods may differ in value and therefore the appraiser has to take out one in ten of the cases that come in under each invoice. I do not see how it would be possible to make appraisements in New York govern at other places under those circumstances, and if you can suggest a way to do it I should like to have your idea.

Mr. COUCH. Arbitrarily I do not suppose that would be possible, but take, for instance, this provision—

Senator JONES, of Arkansas. Before you finish, let me ask another question. Is there any system in the customs business of the United States of ports of entry keeping informed of the action of other ports of entry in matters of classification and valuation?

Mr. COUCH. That is a point which I think is not covered properly, but I do not know.

Senator JONES, of Arkansas. Proceed.

Mr. COUCH. The appraisers get their information of market value by certain standard lines of goods—goods that are understood and recognized by the trade. You have provided in the law for the collection of samples at the general appraiser's. We are receiving from the consuls samples of the different classes of goods. They come at the time of the importation, and they are sent up to our appraiser. It has occurred to me that there might be a system of administration by which appraising officers would work in touch if the sample matter was made use of and the general appraisers had fixed the value of certain recognized lines of goods and would furnish that information to the appraisers at other ports. Then those samples would stand as a guide, as a means of comparison, as a test, as a rule, if you please, by which they could measure relative values. That has occurred to me as being a possible line.

Senator JONES, of Arkansas. It looks to me as if there might be something done in that way.

Senator PLATT, of Connecticut. Take as an illustration the silk duties and the wool duties. Wool duties are higher. If there is any wool in the silk there would be a higher duty on that fabric. Now, in New York the appraisers might find that a certain fabric was to be classified under the wool schedule. In Buffalo the appraisers might find that it was to be classified under the silk schedule. Would there be any difficulty in the Secretary of the Treasury, when an appraisement has been made in New York, sending out a circular and informing the other ports what was the rule and have them conform to it?

Mr. COUCH. There is no difficulty in the matter of classification.

Senator PLATT, of Connecticut. But in the matter of value?

Mr. COUCH. You want to keep the two things entirely apart.

Senator PLATT, of Connecticut. I do. The appraiser at Buffalo, in the instance referred to, might say "there is not any wool in this article and therefore it should come in the silk schedule," when the appraiser in New York had said there was wool in it and it should come in the wool schedule.

Mr. COUCH. That is classification. When you come to value, the question is, "What is that piece of goods worth per unit of price, per yard or per measure?"

Senator JONES, of Arkansas. That must be a matter of judgment on the part of the appraiser?

Mr. COUCH. That must be a matter of judgment for the appraiser. That is where the appraiser's act is final.

Senator PLATT, of Connecticut. The Treasury Department can not say, in a way which would control the action of the appraising officers at interior ports, that a certain fabric is to be appraised at a certain value?

Mr. COUCH. No.

Senator PLATT, of Connecticut. That is impracticable?

Mr. COUCH. The value is what the appraiser must find. The point is to inform appraisers so that they will act along common lines.

Senator JONES, of Arkansas. It may be possible for one custom-house to be advised that another custom-house has ascertained the value of a certain staple class of goods to be so much in the country from which exported at a certain time, as a matter of information solely to the other custom-houses, but not as a governing factor?

Mr. COUCH. Simply as a guide.

Senator JONES, of Arkansas. As a matter of information.

Mr. BIDWELL. I have no doubt that when you get to the general appraisers they will have some suggestions to make whereby there can be uniformity of appraisement.

Senator JONES, of Arkansas. That is their particular field.

Mr. BIDWELL. It seems to me that that bureau is a very important one to the Government, and would be very important in the line of getting uniform appraisement if it were enlarged to an extent where the appraisers can have supervision over appraisements in all the important ports.

Senator PLATT, of Connecticut. Suppose the special agents of the Treasury Department were charged with the duty of going about from port to port, and examining the work there, and informing the officers of the ports as to how articles were valued, treated, and classified in other ports; would not that help? That would be an enlargement of the work of the special agents.

Mr. BIDWELL. Yes, there might be special agents acting under the immediate direction of the general appraisers for that purpose. Let me say, as an illustration of that point, that the appraiser here bore down pretty heavily on tobacco, on the question between wrapper and filler. It was developed that tobacco entered here, which was classified as wrapper, could be entered at some other port as filler.

Senator JONES, of Arkansas. That was classification?

Mr. BIDWELL. Yes.

Senator PLATT, of Connecticut. The Department sent an appraiser from here to Florida?

Mr. BIDWELL. I think they did. The Department, on the question of tobacco, endeavored to have all the ports understand, if they could, the line between wrapper and filler, so that the classification should be the same at all the different ports. It was a great discrimination, of course, against the business of New York, where we held right down to a strict line of wrapper and filler, that they could take the same tobacco which we called wrapper and bring it through some other port as filler.

Take the St. Gall goods. There is a staple which undoubtedly is used in every port and every city and every town in the United States. When they commenced the advance of St. Gall goods, in my opinion, if they did not they should have taken means to advance invoices of St. Gall goods at all ports, because St. Gall embroideries, invoiced at 18 centimes per 100 stitches, were here advanced 25, 30, or 40 per cent, and importers were still getting them through Buffalo or Philadelphia or Baltimore at 18 centimes. That was a discrimination not only against the business of the port of New York, but against the business of importers.

Senator PLATT, of Connecticut. And against the merchants of the port where the advances were made?

Mr. BIDWELL. Yes.

Senator JONES, of Arkansas. There can be but one correct valuation under the law, and that is the market price in the principal markets of the country from which the article comes, at the time of its exportation from that country. There may be difference of opinion about what that is, but there is but one correct value. The others are overvaluations or undervaluations.

Senator PLATT, of Connecticut. Inevitably under the present system there must be a more careful and intelligent examination at the port where they have experts than where they have none, or few.

Mr. COUCH. May I add one word to what you were saying, Senator? The dutiable value is the market value as you defined it, and that is found by the legal appraising officers of the United States. Take section 13.

Senator JONES, of Arkansas. The fact is one thing. The finding of the Government officers is the finding of the fact, and it is conclusive on importers so long as it stands, but the duty of the officers is to find what the actual fact is on the other side.

Mr. COUCH. Precisely, as near as we can.

Senator JONES, of Arkansas. Yes.

Mr. COUCH. But the finding is the legal fact.

Senator PLATT, of Connecticut. A considerable part of the appraisement is appraisement on the wharf.

Mr. COUCH. There is a good deal of that.

Senator PLATT, of Connecticut. That has to be done quickly.

Mr. COUCH. And with reference to the matters you are discussing, none, or comparatively none; that is, with reference to the appraisement of values. The goods that are examined on the wharf are very largely goods which pay specific duties and on which the duty is collected by weight, measure, or gauge. Take, for instance, all liquors in casks. They are examined on the wharf. They are gauged there. The appraiser's sampler takes a sample of those liquors to determine the proof, and the examination of the sample determines the proof. Determination of the proof is made at the appraiser's stores.

Senator PLATT, of Connecticut. There is very little examination of ad valorem goods on the wharf?

Mr. COUCH. Comparatively little.

Senator PLATT, of Connecticut. If it is bulky material, like iron or stone or these heavier articles, the duties are usually specific?

Mr. COUCH. Very largely so, and even where they are ad valorem they involve the matter of weighing or measuring, or something of that kind.

Senator PLATT, of Connecticut. So that in your judgment there is not much opportunity for loss to the revenue by wharf appraisement?

Mr. COUCH. Not from undervaluation.

Senator PLATT, of Connecticut. The determination of classification is made on the wharf, too.

Mr. COUCH. The examination is made by the appraiser with reference to what the goods are.

Senator PLATT, of Connecticut. Take a very common article, sugar. How is the ascertainment of its value made? The polariscopic degree determines the amount of the duty.

Mr. COUCH. Yes, sir. I can give you a sugar entry right now, and you can see what it is. Here are the invoices [exhibiting]; here are the bills of lading [exhibiting]; here is the weigher's return [exhibiting]; that is the weight [indicating].

Senator PLATT, of Connecticut. Where is the polariscopic test made?

Mr. BIDWELL. It is made in the laboratory, under the appraiser's direction.

Mr. COUCH. It is made in the chemical laboratory, in the appraiser's stores.

Senator PLATT, of Connecticut. From samples which are taken?

Mr. BIDWELL. By him.

Senator PLATT, of Connecticut. By him, on the wharf?

Mr. COUCH. No; samples are taken by the appraiser.

Mr. BIDWELL. They are going to sample each bag. They have been sampling groups.

Senator PLATT, of Connecticut. How has the change of law, which permits goods to be shipped by express companies from the port of exportation to the port of destination in this country by a continuous passage, operated? Has it resulted in any difficulty in collecting the duties, or does it work smoothly and well?

Mr. COUCH. I do not quite catch your point. There are three systems. There is a package law, where the goods are handled by express companies.

Senator PLATT, of Connecticut. That is recent?

Mr. COUCH. It is comparatively recent. There is the I. T. law, of which we have been speaking, and then there is a special law which was passed with reference to goods imported in American bottoms, by which entry is made by the express companies, and if they fail to deliver, they may return the goods and have the money refunded and the goods placed under general order. That is the latest diversion.

Senator PLATT, of Connecticut. That is the law to which I refer, where goods sent by American vessels may be passed through the port to the point of destination in the hands of the express companies.

Mr. COUCH. Yes. In the form in which it passed and as we are handling it we have not had very much trouble with it.

Senator PLATT, of Connecticut. You do not think it is practically used for purposes of undervaluation?

Mr. COUCH. No.

Senator PLATT, of Connecticut. You have no examination here?

Mr. COUCH. Oh, yes; the goods are examined and appraised and the duties collected here before they leave.

Senator PLATT, of Connecticut. Before they are sent inland; before they are delivered to the express companies?

Mr. COUCH. Yes. The venom was taken out of that measure before it was passed.

Senator JONES, of Arkansas. What law are you talking about?

Mr. COUCH. The special express-forwarding law. As originally framed, it contemplated sending the goods right from the wharf. It was rather hazardous. Of course everyone of those specialties adds to the complexity of administration.

Senator PLATT, of Connecticut. What is the method of ascertaining the dutiable value of the goods thus shipped and forwarded?

Mr. COUCH. They are sent to the appraiser's stores in bulk instantly upon landing.

Senator PLATT, of Connecticut. All of them?

Mr. COUCH. All of them.

Senator PLATT, of Connecticut. You do not take samples?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. You take all the packages?

Mr. COUCH. Yes, sir. They are sent to the appraiser's stores at once; the papers are made out here on the statement of the express companies, and are sent forward at once to the appraiser's stores to meet them, and whatever the duties are is paid, and the goods are delivered, corded, and sealed.

Senator PLATT, of Connecticut. They are handled expeditiously, I suppose?

Mr. COUCH. They are handled expeditiously; that is, as expeditiously as the volume will admit.

Senator PLATT, of Connecticut. I wish to recur to the ten-day bond. I understood you yesterday to say that if goods in the package examined were advanced, the advance would be applied to the same description of goods in the entire invoice?

Mr. COUCH. Yes.

Senator PLATT, of Connecticut. Suppose that the classification of the goods in the package examined is changed; is there any way of making the change of classification apply to the entire invoice?

Mr. COUCH. It would apply without any question at all if the description were the same.

Senator PLATT, of Connecticut. But, as a matter of fact, the package may contain a good many different kinds of goods; and may not other descriptions of goods in the packages not examined escape the proper classification?

Mr. COUCH. Yes, that is possible.

Senator PLATT, of Connecticut. Is it not really a practical result?

Mr. COUCH. If the goods are properly invoiced, I do not think the appraiser would have much difficulty in determining the texture. Wherever he would have, he would be apt to call for the goods to be sent in.

Senator PLATT, of Connecticut. He would not get them?

Mr. COUCH. He may and he may not. It depends upon how pressing business is. The ten-day bond serves as a string upon the goods, so that we keep track of them, and it serves as a reminder, if you please. The question whether anything could be recovered by suing on the bond is still pending. If our contention should prove to be correct, it would strengthen the ten-day bond and give it force.

Senator JONES, of Arkansas. But suppose you find that there has been an undervaluation; when the final liquidation is made you ascertain the amount due from the importer just as if the goods were in the hands of the Government.

Mr. COUCH. Whatever the appraiser adds to the invoice, whether it be to an examined or an unexamined package, we include in the liquidation.

Senator JONES, of Arkansas. And an action brought on that would be brought on account of a debt due the Government, and not on the bond?

Mr. COUCH. It would be on a debt due the Government by liquidation.

Senator PLATT, of Connecticut. The penal amount of the bond is twice the value of the entire invoice?

Mr. COUCH. Yes; not the value, but the estimated duties.

Senator PLATT, of Connecticut. That is what I desire to know; is it the value of the invoice or the estimated duties?

Mr. COUCH. The estimated duties.

## STATEMENT OF GEORGE R. BIDWELL.

Senator PLATT, of Connecticut. You are collector at the port of New York?

Mr. BIDWELL. Yes, sir.

Senator PLATT, of Connecticut. Have you any suggestions to make to the committee as to how the present administrative customs laws might be improved in the interest of good administration and the collection of the duties?

Mr. BIDWELL. I will state that I have here, which I will present to the committee, a communication prepared by special deputy collector, Mr. Couch, suggesting certain amendments to the administrative act. The subject has had my careful consideration, and I offer this as the suggestion of the office. I believe if the amendments are made as suggested, it will very much improve the administration of the customs laws without endangering the revenue.

The communication referred to is as follows:

OFFICE COLLECTOR OF CUSTOMS,  
*New York, October 14, 1898.*

HON. GEORGE R. BIDWELL,  
*Collector of Customs, New York, N. Y.*

SIR: Pursuant to your oral request, I have prepared and now submit for your consideration the following memoranda upon various provisions of law applicable to the invoice, entry, appraisement, and liquidation for duty of merchandise subject to an ad valorem duty or to a rate of duty based upon value.

1. The act approved June 10, 1890, which became operative on August 1 of the same year and was amended July 24, 1897, is the one chiefly under consideration. Sections 2 and 3 of this act prescribe the contents, respectively, of invoices of merchandise when actually purchased, or when procured otherwise than by actual purchase; also the declarations required to be indorsed thereon and signed by the purchaser, manufacturer, or agent when produced to the consul, vice-consul, or commercial agent of the United States for certification.

Sections 4, 5, 7, and 8 set forth the various legal requirements and restrictions with which the importer, consignee, or agent must comply upon his entry and statement of the value of merchandise imported into the United States.

Sections 10, 11, 12, and 13 provide for official appraisements, the result of which "shall be final and conclusive as to the dutiable value of such merchandise against all parties interested therein," and section 19 defines the basis of dutiable value which is applicable alike to values stated in the invoice, declared in the entry, and required in the appraisement.

Taken collectively, these sections provide a legal method for the ascertainment and determination of dutiable value. They require three separate valuations upon the basis defined in section 19, to wit: The invoice value duly certified in the foreign country before a consul, vice-consul, or commercial agent of the United States; an entered value duly declared upon entry by the importer, consignee, or agent, and the value found by the appraising or reappraising officers of the United States; and whichever of these valuations is highest must be taken and held to be the legal dutiable value.

In making these valuations it should be noted that the law gives to the appraising officers of the United States full freedom of action. Not only are they permitted, but they are required "by all reasonable ways and means in his or their power to ascertain, estimate, and appraise the \* \* \* actual market value and wholesale price of merchandise at the time of exportation in the principal markets of the country whence the same has been imported." On the other hand, the importer in making his statement of value upon his entry is always restricted and often embarrassed by various provisions of the law. He is required to produce his invoice in the exact condition in which he received it, and make his entry accord with the values given in his invoice. In the case of goods actually purchased by him or for his account he is permitted to make such addition to the cost or value given in his invoice as he deems necessary to make market value, but is not permitted to declare any less value than that given in the invoice, even when the market value at the time of shipment is below the price actually paid for the goods.

In the case of goods procured otherwise than by actual purchase, and of all goods consigned for sale wholly or partly on foreign account, whether the same were actually purchased or otherwise, he is debarred from making any addition on his entry and is compelled to declare the value stated in his invoice and no other. Under such restrictions it is easy to see that an honest importer may be constrained to declare in his entry a value greater or less than the actual market value at the time of shipment to the United States. In either case he suffers loss. If his entered value exceeds the actual market value, he has to pay duty upon such excess. If it fall below that found by the appraising officers, he is mulcted in an additional duty as provided in section 7.

2. The law levies duty upon actual market value as defined in section 19. The appraising officers are required to ascertain, estimate, and appraise that value, and the value found by them is final and conclusive upon all parties. Hence, whenever an importer is constrained to declare a greater or less value in his entry he is apt to consider such constraint a just ground for dissatisfaction. Under-valuations are readily identified in the records of this office, but over-valuations on invoice and entry are not reported by the appraiser and are not known to the collector's officers except through frequent oral complaints and expressions of dissatisfaction by importers. To illustrate the effect of these restrictions I cite several examples that have been subjects of protracted consideration in this office and also in the Treasury Department.

There was recently before the Department an application of certain importers for relief from penalty upon an invoice of actual purchase. The invoice is dated and certified before the consul at Calcutta January 29, 1898, and gives the date of purchase as August 11, 1897. It covers 34,000 yards of Hessian cloth, at 9-10 rupees per yard, amounting to 3,272-8 rupees, to which are added charges for packing 42-8 rupees; shipping, 8-8 rupees; freight, 221-10 rupees; verifying fee, 12-12 rupees; bill of lading and stamps, 1 rupee; commission, at 2½ per cent, 88-15-6 rupees, making a total invoice amount of 3,647-13-6 rupees. Upon the entry all charges were deducted from gross value, leaving the entered dutiable value at 3,272-8 rupees. The appraiser returned the invoice without adding to the price, but noted the charge for packing, 42-8 rupees, as a dutiable cost to be added, and this addition to the entered value carried the penalty, which was the sub-

ject of appeal. In his special report on the appeal the appraiser states that in this case the 42-8 rupees need not be added to make market value, as the price on the invoice was greatly above the market value at the time of exportation. On the same invoice the consul makes the following notation: "Market price day of exportation, 7-13 rupees per yard f. o. b," which makes 2,656-4 rupees—

|                                             | Rupees. |            |
|---------------------------------------------|---------|------------|
| Entered value without dutiable charges..... | 3,271-8 | \$1,040.65 |
| Invoice value with dutiable charges.....    | 3,315   | 1,054.17   |
| Export value, as per consul's report.....   | 2,656-4 | 844.69     |

the net result being that the importer was compelled to pay straight duty on \$210 in excess of market value, and penal duty of 1 per cent on the total liquidated value of \$1,054. As this invoice was first returned by the appraiser, it showed a correct valuation in the invoice, but an undervaluation in the entry, and not until the appraiser's special report on the importer's appeal was the fact disclosed that the appraiser had found the actual market value to be far less than the dutiable value declared in the entry, and, consequently, that there was no legal ground for the assessment of the additional duty provided for under section 7; but there was no escape from the straight duty assessed on the \$210 in excess of market value.

Another typical case is that of a large firm of merchants residing in London, having correspondents in the principal markets of the world, represented at this port by a large firm of merchants having like extensive trade and correspondents. This London firm made a purchase in the Russian market and invoiced their goods, and had them certified before the consul in the same manner as the one above cited. The market advanced materially between the date of purchase and the date of the invoice. The goods were sent by the London firm direct from the Russian market to their correspondents at New York, and upon presenting their entry the consignees endeavored to make an addition to value under section 7, but under the law and regulations were debarred from doing so, as they were not the owners of the goods, but simply the consignees of foreign owners, it being held by the Department that the invoice under such conditions was not an invoice of actual purchase within the meaning of the law, and they now stand in this position—that they are not permitted to get a corrected invoice from the port of shipment and are compelled to enter their goods at the invoice value, with the certainty that a penalty will attach for undervaluation, or leave their goods unentered, to be sold at the end of a year as unclaimed.

Without further quotation of individual cases it may be stated broadly that under the provisions of this act the sugar schedule in the act of 1894 became a positive distress to customs officers and to the mercantile community. It was found to be practically impossible to make an invoice and entry of consigned sugar that did not involve the payment of duty upon large values in excess of the values found by the appraising officers; or, on the other hand, involve the importer in a penalty for understatement of value, and the matter became so burdensome that the Department finally granted partial relief by authorizing the acceptance of what were termed "conditional invoices," and by the rebate of accrued additional duties that had not been paid to the amount of \$517,705.62; but it was held that no relief could be granted in the numerous analogous cases where the importer had already promptly paid the additional duties.

The conditions and instances under which importers might justly feel themselves oppressed by undue exactions through the operation of this act could be multiplied indefinitely, but the foregoing will suffice to illustrate the situation.

3. The last clause of section 7, which enjoins that "the duty shall not, however, be assessed in any case upon an amount less than the invoice or entered value," makes it necessary for the collector to ascertain and determine the dutiable value of all invoices not advanced in value by the appraiser. This provision was incorporated in section 2900 of the Revised Statutes, and appears to have been taken from the act of March 3, 1865. Section 2907 of the Revised Statutes, then in force, fixed the basis of dutiable value at the point of delivery of the merchandise "to the vessel in which shipment is to be made to the United States," by requiring that there should be "added to the cost or actual wholesale price or general market value at the time of exportation \* . \* the cost of transportation, shipment, and transshipment, with all the expenses included from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States, the value of the sack, box, or covering of any kind in which such merchandise is contained, commission at the usual rates; but in no case less than two and one-half per centum, and brokerage, export duty, and all other actual or usual charges for putting up, preparing, packing for transportation, or shipment."

With rare exceptions this provision of the law practically made the total invoice cost or value dutiable, and hence the dutiable invoice value could be readily determined without leaving any ground of dispute.

Section 7 of the act of March 3, 1883, made a radical change in the conditions by repealing sections 2907 and 2908 of the Revised Statutes and section 14 of the act entitled "An act to amend the customs revenue laws and to repeal moiety," approved June 22, 1874, and providing that "hereafter none of the charges imposed by said sections or any other provisions of existing law shall be estimated in ascertaining the value of goods to be imported, nor shall the value of the usual and necessary sacks, crates, boxes, or covering of any kind be estimated as part of their value in determining the amount of duties for which they are liable."

After protracted litigation extending through several years and relating chiefly to charges incident to putting goods in their recognized marketable condition as discriminated from their shipping condition, dutiable value, by decision of the Supreme Court, was based upon the goods per se, which was at a point below their shipping condition, and in very many cases, perhaps in a large majority of invoices covering cased and baled goods, was placed at a point below their marketable condition as well. During the entire period of litigation the ascertainment and determination of the dutiable value of the invoices was a serious difficulty for all customs officers who had to do with the ascertainment of values and the liquidation of duties. The magnitude of this difficulty is sufficiently indicated by the multitude of suits and the large amount of refunds resulting therefrom in what are known as the "commissions and charges cases."

The full significance of these changes in the law and the confusion wrought by them in respect to the dutiable value of invoices will hardly be appreciated without some reference to commercial conditions and usages. In trade and commerce market value necessarily

implies marketable condition, and naturally all costs and charges incident to placing goods in their marketable condition would be included in the invoice price without specification, while all other costs and charges incident to the commercial transaction would be separately itemized in the invoice; or by some equivalent method any costs and charges incident to the recognized marketable condition of the merchandise would be distinguished from any extraneous costs appearing in the invoice. In fact such discrimination in invoices prior to 1883 was so general that it denoted a well-established commercial usage.

The act of March 3, 1883, by placing the basis of dutiable value below the commercial basis of marketable value compelled appraising officers to find a market value that did not exist in trade and commerce, to wit, the market value in some unmarketable condition. As a natural consequence exporters and importers began to change the construction of the invoice to meet the novel basis of appraisement and avoid the payment of excessive duties. This was done in various ways, but largely by incorporating in the invoice price a variety of charges indiscriminately pertaining to the marketable, shipping, or other condition applicable to the merchandise. Thus, during the seven years or more that the act of 1883 remained in force, the practice of multiplying charges and incorporating them in the invoice price became widely established, especially in respect of goods subject to appraisement for value. In consequence of these changes and of the rulings of the Department before the cases reached final determination in the Supreme Court, it was not only difficult to determine the dutiable value of invoices at the time of entry, but the validity of appraisements was seriously impaired and dutiable value as never before became the subject of protest and appeal after liquidation.

Following immediately upon these disordered conditions came the present law, which requires appraisement to be made upon the market value of the goods in their marketable condition, and including all costs and charges for packing, putting up, covering, and all other costs and charges incident to placing the goods in condition packed ready for shipment to the United States, thus providing a new basis for dutiable value, while the requirements with reference to invoices remain substantially the same as before, so that the invoice under this law is apt to contain charges that are clearly elements of dutiable value, charges that are as clearly nondutiable, and very many charges that are disputable, being dutiable or otherwise according to conditions; and it frequently happens that dutiable and nondutiable charges are grouped in the same item, and hence the difficulties attending the determination of dutiable value which developed under the act of 1883 remain in full force under the present act.

4. The provision in section 7 which prevents any addition by the importer on his entry to the invoice value of any imported merchandise obtained otherwise than by actual purchase, the ruling of the Department that such prohibition applies to goods consigned for sale on account of a foreign owner even when actually purchased by him, and the refusal to allow certification by consuls to corrected invoices of such merchandise, taken in connection with the specific declarations which the importer is required to make on his entry under section 5, produce conditions in practical administration that could hardly have been contemplated by the framers of the act and that should be considered with great care. Section 1 of the act provides "that all merchandise imported into the United States shall for the

purpose of this act be deemed and held to be the property of the person to whom the merchandise may be consigned."

The consignee, therefore, is the party accountable to the Government for all matters connected with his importation. It is his act and his declaration that vitalize both invoice and entry; it is his restricted entered value that determines the question of additional duty, and the restriction confines him to the values stated in his invoice, save only in case of a manifest clerical error, which in practice means some visible error in computation or in summation. Hence, whenever a consignee before making his entry becomes cognizant of any undervaluation or any material error in his invoice he encounters a dilemma. If he refrains from making entry and allows his goods to go under general order until he can produce a corrected invoice duly certified, or until his goods are sold by the collector, he suffers loss and perhaps serious disturbance in his business. If, on the other hand, he elects to make entry he may ease his conscience by giving information to the collector concerning the error or undervaluation of which he is cognizant, but he is constrained to make his entered values conform to those in the avowedly incorrect invoice and can not escape the declaration having the force of an oath, to the effect "that the said invoice and the declaration thereon are in all respects true."

In the extensive business at this port instances like the above, brought by importers to the notice of the collector or his deputy, have arisen daily, and often many times in the day. In some of these cases where entry was made under the restrictions of the act the conditions were such as to show that values were advanced and additional duties collected under section 7 solely upon information furnished by the importer. In other cases entries have been withheld and goods allowed to go under general order to an extent that must have been detrimental to the business of the importers; but, however much or little importers may be embarrassed, the important fact remains that such dilemmas are repugnant to just and equitable administration.

In this connection I note that the refusal of the law to permit additions on the entry to values given in the invoices of consigned merchandise is claimed to be necessary to prevent undervaluations; on the contrary, the experience of this office goes to show that this prohibition is far more effective to compel undervaluations in entries than to prevent them in invoices.

5. The law and regulations controlling the reduction of foreign currencies constitute an important and oftentimes a disturbing factor in the determination of dutiable values. After the appraising officers have finally determined the dutiable value of any merchandise in the foreign currency of the invoice, it has to receive final expression by conversion into money of the United States. The currency of countries maintaining a gold standard, whether coin or paper, is readily converted without affecting value; but the case is widely different in respect to currencies of countries having a silver standard. Disturbance arises whenever, from any cause, such currency circulates in trade and commerce at a higher value than that reported by the Director of the Mint. If such currency is converted at the mint value, it produces a dutiable value less than the actual market value. If reduced at its value as a circulating medium, the parity between appraised and dutiable value is maintained, but protest and appeal follow.

For example, when Austria-Hungary was on a silver basis, but doing business chiefly with paper currency, and at a time when the

value of the silver florin, as proclaimed by the Director of the Mint, was 32 cents, the commercial value of both the silver and paper florin was a fraction over 40 cents. After protracted litigation and under decision of the courts, the value proclaimed by the Director of the Mint was taken in liquidation, and in consequence the appraised value exceeded the liquidated value by more than 33 per cent. At the present time we are taking, against the protest of importers, the rupee of India at a value of 30 to 32 cents, as certified by the United States consuls. In the report of the Director of the Mint for October 1 of this year the value of the rupee is given at 20.7 cents, and should the contention of the importers finally prevail, the appraised value will exceed the dutiable value by at least 50 per cent. In general it may be said that the disparity in value between silver as a commodity and silver as a circulating coin is a disturbing element in the determination of dutiable value.

6. Market value as defined in section 19 appears to be the most feasible basis for dutiable value that has been provided up to the present time, but market value as a standard is indeterminate. It is subject to many counteracting forces of variable energy, and consequently is ever liable to sudden fluctuations. In practical administration, therefore, market value is a thing that can be approximated, but not indubitably proven. Disinterested experts may and often do differ materially in their estimates of such value, a fact that appears to be recognized in the law, which makes it the duty of appraising officers not simply to ascertain, but also to estimate and appraise the actual market value. By the appointment of nine general appraisers this law has established a permanent tribunal to make final and conclusive determination of all questions of "value" for duty purposes, and "to exercise, under the general direction of the Secretary of the Treasury, such other supervision over appraisements \* \* \* for duty \* \* \* as may be needful to secure lawful and uniform appraisements \* \* \* at the several ports." Under such conditions importers, for their own protection, very naturally seek to make their values on entry conform to the values of similar merchandise as determined by official appraisal.

7. The difficulties and embarrassments that have arisen in the application of various provisions of this act to practical conditions in trade and commerce, and which are herein indicated in part only, are, I think, sufficiently serious to require remedy.

Just and uniform appraisements at all ports is certainly a desideratum without which equitable administration by collectors is impossible. Whether this end can be secured under the authority granted in section 12 without further legislation is doubtful. Assuming that a plan of supervision and information be provided for principal ports, having a body of experts sufficient to cover all important classes of merchandise requiring appraisalment, a difficulty arises in respect to the numerous small places that have been made ports of entry under the immediate-transportation act, and where a sufficient number of experts can not be provided. This part of the subject, however, I leave where the act places it—with the general appraisers, under the direction of the Secretary of the Treasury—and confine my suggestions to matters that come more directly within the purview of the collector.

The explicit purpose of the act being "to simplify the law in relation to the collection of the revenue" and "to secure lawful and uniform appraisements at the several ports," it follows logically that its various provisions should be in harmony with that purpose

and should tend to promote and not to obstruct the entry of imported merchandise at its lawful value. There can be but one lawful market value and should be but one lawful dutiable value, to wit, that appraised by the officers of the Government designated for that purpose, and such value, when determined, should be held to be the dutiable value in all cases, whether the same be greater or less than that stated by exporter or importer.

8. To the end that relief from the above-mentioned difficulties and others of like character may be afforded and the various provisions of the act brought more in harmony with its declared purpose, a few modifications are suggested, as follows:

Section 5: Provide that the owner, consignee, or agent may present with his entry a statement in writing specifying in detail any error, overvalue, or overcharge claimed in his invoice, have the same noted in his declaration, and considered on its merits on appraisement and liquidation for duty.

Section 7: To be amended—

(1) So that the owner, consignee, or agent of goods procured otherwise than by actual purchase may make additions in the entry in the same manner as he is now allowed to do in the case of goods actually purchased.

(2) So that the appraised value shall exceed the entered dutiable value some certain per cent before additional duty shall attach.

(3) Substitute "may seize" for "shall seize" in the first proviso; and

(4) At the close of the last proviso, by striking out the words "The duty shall not, however, be assessed in any case upon an amount less than the invoice or entered value" leave dutiable value to be determined under the provisions of section 13.

Section 8: The provisions of this section are practically useless, are a perpetual hindrance in customs business, and should be repealed.

Yours, respectfully,

J. J. COUCH,  
*Special Deputy Collector.*

CUSTOM-HOUSE, COLLECTOR'S OFFICE,  
*New York, November 16, 1898.*

Approved and respectfully referred to the subcommittee of the Finance Committee of the United States Senate for their consideration.

G. R. BIDWELL, *Collector.*

Senator PLATT, of Connecticut. In this communication you state that the law gives to the appraising officers full freedom of action, but that the importer is often embarrassed by reason of the operation of the law; that in case of goods actually purchased, by law he is permitted to make additions to the cost or value given in his invoice as he deems necessary to make the market value, but in the case of goods procured otherwise than by actual purchase, in the case of consigned goods, he is debarred from making any addition to his entry and compelled to declare the value stated in the invoice and no other.

Do you know the theory upon which that restriction was put on an importer who is not the actual purchaser of the goods? Do you know of any reason why a difference in that respect was made between the actual purchaser and the consignee who is not the purchaser of the goods?

Mr. BIDWELL. Mr. Couch can probably answer the question.

Mr. COUCH. I can suppose what the reason was. I do not know. I suppose that that is one of the features introduced with a view to checking undervaluations, and so far as I can comprehend the theory, it was upon the theory that the party in the foreign country would know the market value there better than the party here.

Senator PLATT, of Connecticut. In the case of an actual purchaser, is there not a presumption that his invoice is correct, which does not exist in the case of a consignee?

Mr. COUCH. As to market value?

Senator PLATT, of Connecticut. Yes.

Mr. COUCH. I do not think that presumption would hold. I think the difference in the two invoices is based on the requirements of sections 2 and 3 of the act.

Senator PLATT, of Connecticut. If a man is an actual purchaser and the invoiced value is less than the real value, it presupposes collusion between him and the other party, the seller?

Mr. COUCH. Not necessarily, by any means.

Senator PLATT, of Connecticut. If, for the purpose of undervaluation, it presupposes that. If, an error is made it would not presuppose collusion, but if it is a case where undervaluation is suspected, does it not presuppose collusion?

Mr. COUCH. No, sir; unless a fraudulent invoice is submitted.

Senator PLATT, of Connecticut. That is what I had in mind. If the invoice correctly states, in the case of a purchase, the amount paid for the goods, what occasion is there for the purchaser to make an addition in any way?

Mr. COUCH. Suppose the market goes up between the time he makes the purchase and the time he makes the shipment?

Senator PLATT, of Connecticut. That is the reason for it?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. Does that reason exist where goods are consigned or sent to an agent of the party here?

Mr. COUCH. That reason would not exist then, because they would be supposed to make their market-value invoice.

Senator PLATT, of Connecticut. In the case of an actual purchaser, he may purchase the goods quite a while before he ships them, and the market value may change?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. But in the case of consigned goods or goods sent to a branch house here, that state of things would not be likely to occur?

Mr. COUCH. If you will notice sections 2 and 3 you will observe that two forms of invoices are provided in the law.

Senator PLATT, of Connecticut. But answer the other question first, if you please. In case a man is consigned goods—

Senator JONES, of Arkansas. The foreign purchaser may consign as well as the manufacturer.

Senator PLATT, of Connecticut. In case the goods are consigned by the manufacturer abroad to an agent in this city, or are consigned to his branch house here, there is not any chance for them to have risen?

Mr. COUCH. In that case the law requires him to make a market-value invoice. He would have to state his judgment of the market value.

Senator JONES, of Arkansas. At the time of shipment?

Mr. COUCH. At the time of shipment.

Senator PLATT, of Connecticut. So that there is not the same necessity that he should be permitted to make additions to his invoice in order to bring it up to market value, that there is in the case of a purchaser who has held the goods some time and meantime the market has risen. There is the difference.

Mr. COUCH. Yes. There is another difference. That would do where the country makes its own market value. It would do in the case of manufactured goods, which probably were in the mind of Congress when it passed that bill; but we have a large trade from countries where the market value is not made at all in the country itself. The market value in that country depends upon sales made in New York and in London. For instance, there is the whole hide question, and the sugar question under the act of 1894, which was absolutely distressing to every Government officer who had to deal with the act.

Senator PLATT, of Connecticut. The act of 1894?

Mr. COUCH. Yes, sir; of 1894. Sugar paid an ad valorem duty. Now, take one of the West India Islands, some of the smaller ones, from which we get large importations of sugar. They did not know on the island what the market value of the sugar was until they got the returns from New York; and yet they were required to make out market-value invoices. Take the whole hide question of South America, and I can show you invoice after invoice where you can not tell what the market value of the hides there was.

Senator PLATT, of Connecticut. Are not those cases of actual purchase?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. They are cases of consignment?

Mr. COUCH. Yes; cases of consignment to commission houses here, which do the business for them.

Senator PLATT, of Connecticut. The parties there do not know anything about it until they get the returns?

Mr. COUCH. Take the case of a manufacturer abroad who is sending his goods to a branch of his firm or to his agent here; he can not determine the market value.

Senator PLATT, of Connecticut. He can estimate it.

Mr. COUCH. If you can get at it. Market value is one of those things that you can approximate; but I defy you to get at it to a demonstration.

Senator JONES, of Arkansas. The difficulty you suggest here does not apply to goods of that sort?

Senator PLATT, of Connecticut. Yes, it does.

Mr. COUCH. It would come in there. It would apply to them. I go the whole hog.

Senator PLATT, of Connecticut. We have been led to suppose that most or a large part of the difficulty in detecting undervaluations arose in cases where goods were sent by a manufacturer in a foreign country to a branch house or agent in this country. Now, do you not think that to prevent such a man from making an addition to his invoice price is rather necessary to prevent him from attempting undervaluations?

Mr. COUCH. I think there should be an opportunity for him to correct his values at the time of entry here, either himself or through his agent, because that is the first time it comes within the purview of the United States law. An undervaluation of an invoice is so much waste paper until it is presented by the importer and declared

to before the collector. We will suppose, if you please, that the party made a deliberate undervaluation when he made the invoice before the consul, or that he made an erroneous undervaluation, whichever you please, and discovered, after the undervaluation, that it would not work. Is it better, as a matter of administration, to force him to make that entry and declare that valuation to be true, or to let him correct his error before he has committed legal perjury?

Senator PLATT, of Connecticut. Your idea, then, is that if he has it in mind—

Mr. COUCH. And repents.

Senator PLATT, of Connecticut. Your idea is that if he has it in mind to commit fraud on the revenue and repents by the time the goods get here, he should have an opportunity to correct the invoice?

Mr. COUCH. To correct his wickedness of mind which has not culminated in an overt act. When they make an entry and make the declaration, your first statement of false valuation is put on paper which is within the reach of the law.

Senator JONES, of Arkansas. I do not know that I quite comprehend your statement.

Mr. COUCH. The party comes here with an invoice which is designedly an undervalued invoice. So long as he does not present that invoice and make entry there is nothing performed of which the law takes cognizance. But when he or his agent appears at the custom-house and makes entry, presents that invoice and declares that it is the true and correct invoice, and gives the value therein stated as the true and correct value, knowing it is false, then he has committed perjury, and not until then. Now, having done that, then if it is discovered that he has undervalued, the penalty would come in with all propriety; but if you bar him from the opportunity to correct either a purposed wrong or a mistake prior to his making declaration to it before the collector and standing upon it, then you compel him to commit an illegal act from the beginning.

Senator JONES, of Arkansas. I see the force of that statement.

Senator PLATT, of Connecticut. If there exists in the mind of the shipper at the time of shipment an intention to defraud the Government by undervaluation, and he starts the effort to do so, and the law gives him the right to correct it after the goods arrive at this point, do you not think he would be more likely to make improper invoices when he ships his goods than if he knows that he can not correct the invoice?

Mr. COUCH. The practical answer to the question is that invoices of that character come just about the same now, since you put the bar on, that they did before you put on the bar.

Senator PLATT, of Connecticut. When was the provision that he could not change the invoice put on?

Mr. COUCH. In 1890.

Senator JONES, of Arkansas. It was not the case before?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. So you do not think it would lead to any greater attempt to defraud the revenue than prevails now?

Mr. COUCH. No, sir; I do not think it would. On the contrary, it would relieve honest importers from very great embarrassments.

Senator PLATT, of Connecticut. In your statement to the collector you make reference to the laws controlling the reduction of foreign currency, or requiring the statement of foreign currency in American currency, as being a disturbing factor in the determination of dutia-

ble values, but do you suggest any remedy in your suggested amendments?

Mr. COUCH. No, sir; I do not. I have simply made a statement of the fact as a matter that should be carefully looked into.

Mr. BIDWELL. There is one point you touch on, the question of an amendment to substitute "may seize" for "shall seize." How would it do to explain the proposed amendment?

Mr. COUCH. There are several reasons for the proposed amendment. In some cases the Government is better protected by having the 50 per cent penalty than by seizing. Take one case right in point, which has caused a good deal of correspondence and discussion. I refer to the case of Worcestershire sauce. Worcestershire sauce, when it is put up with its proper label, has a recognized value, but when you take the materials from which Worcestershire sauce is made and mix them without the imprimatur of the label of anything else, that is, materials which are to be further proceeded with, they constitute an importation which has a speculative value only. Take the very case which is pending. The Worcestershire sauce which is under seizure to-day when it is put on the market probably will not sell for one quarter of what the appraiser had appraised it at. If we had taken the duties on it at 50 per cent of the appraised value, we should have received a great deal more for the Government than we will get now or are likely to get.

Another reason is that in many cases which come to us the undervaluation is of some unimportant item in the invoice. I have seen cases where the entire appraised value over 50 per cent did not amount to \$2, and that covered the condemnation of a case worth \$400 or \$500.

Mr. BIDWELL. It is a great injustice, in my opinion, that you must seize \$500 or \$1,000 worth of merchandise simply because of the undervaluation of one item.

Mr. COUCH. It makes an excessive penalty, one beyond all reason. Frequently it is caused by a simple blunder.

Senator PLATT, of Connecticut. You suggest an amendment so that an additional duty will not be levied unless there is a certain percentage of undervaluation found. What percentage would you suggest? The old law was 10 per cent, and we made it apply if there is an undervaluation equal to 1 per cent. Would you suggest a return to the old law or a less percentage?

Mr. COUCH. I think a return to the old law would be as wise as any course, with good practical administration in the appraising department.

Senator PLATT, of Connecticut. If a man can undervalue 10 per cent without penalty or additional duty in the nature of penalty, is it not a temptation to undervalue all the while, say, 8 per cent?

Mr. COUCH. You are dealing there with a general proposition?

Senator PLATT, of Connecticut. Yes.

Mr. COUCH. There are certain classes of goods as to which the most disinterested experts you get will vary in their estimates of value. The suggestion would be that the margin should be a medium of what experience shows to be the discrepancy between disinterested experts. To answer the question you have just given me—you ask if that would not be a temptation to undervalue constantly 8 per cent—I answer No, and for this reason: The parties who are importing goods want to get possession of their goods as promptly as possible. Every time their invoice is undervalued it involves delay. A delay may be short

or it may be long. Consequently all importers are watching the valuations that are given by the legal authorities of the United States, both here and abroad, and their tendency always is, if they are honest importers, to make their values at the time of entry conform to the recognized official values of that class of goods at that time. Every time they make an addition, that is, a correction of the invoice, it shows that they accept a higher value than the invoice gives. On the other hand, if they were importing the same goods to places where expert appraisers do not exist, they might take their chances at an undervaluation, that it would go through at the invoiced value. That they could do now, if that was their purpose.

Senator PLATT, of Connecticut. While expert appraisers may differ as much as 10 per cent as to market value in foreign countries as to goods imported, would it not be true ordinarily that they would not differ more than 5 per cent?

Mr. COUCH. That would depend very much on the class of goods they were examining.

Senator PLATT, of Connecticut. In other words, is not 5 per cent a fair margin to allow? If you are going to fix any different rate than at present exists, would not 5 per cent be better than 10 per cent—the old law?

Mr. COUCH. I can not see that it would.

Senator PLATT, of Connecticut. Every importer wants to get in his goods as cheaply as he can.

Mr. COUCH. Of course he does. That is very true.

Senator PLATT, of Connecticut. And even with an honest man it becomes a question of conscience.

Mr. COUCH. Every man has his bias.

Senator PLATT, of Connecticut. Yes.

Mr. COUCH. He may undertake to estimate market value, and his estimate will be modified by the personal equation. I do not think there is any doubt about that. If you have goods to sell and are making a price for them, you will be apt to estimate the goods somewhat higher than you would if you were to be the buyer of the same goods and were trying to get the market down. That element enters every time and does not imply designed dishonesty.

Senator PLATT, of Connecticut. Should not a law be so framed as to exclude, so far as possible, the temptation to dishonesty? That is why I asked you whether under the 10 per cent margin before an additional duty was imposed there was not temptation to dishonesty.

Mr. COUCH. With the 10 per cent margin the difference would be narrow on some goods and ample on others.

Senator PLATT, of Connecticut. Some goods, I suppose, could scarcely be undervalued 10 per cent without the presumption of a desire to defraud the revenue?

Mr. COUCH. Some goods from some places.

Senator PLATT, of Connecticut. While others might be undervalued that amount, and there would be no presumption of an intention to defraud the revenue?

Mr. COUCH. Yes, sir.

Senator PLATT, of Connecticut. Do you think that in the majority of instances the importer can determine within 1 per cent the actual market value or the wholesale prices in the principal markets of the country of exportation?

Mr. COUCH. On manufactured goods?

Senator PLATT, of Connecticut. Yes.

Mr. COUCH. I do not believe he can.

Senator PLATT, of Connecticut. On purchased goods he can, if he assumes that the purchase price is the market price?

Mr. COUCH. Yes, sir; but every man who purchases is going to get under the market, if he can.

Senator PLATT, of Connecticut. Is wholesale price in the foreign country a certain and uniform price?

Mr. COUCH. I guess not.

Senator PLATT, of Connecticut. That is to say, some persons purchasing at wholesale are able to purchase at less than others can?

Mr. COUCH. Yes, sir. It would depend upon their credit somewhat.

Senator PLATT, of Connecticut. So that wholesale price does not determine the actual market value?

Mr. COUCH. The term "market value" is an indefinite one. It can be approximated. For instance, take goods which are sold on the public exchanges and see what difference there is in the reports of the day. They have an arbitrary method of fixing the price for settlement every day. Their reports of sales will fluctuate during the day, up and down an eighth, a quarter, 1 per cent, sometimes 2 per cent. That is the most open market you can have. When you come to deal with the transactions of private parties all over the world it is different. A party comes in to purchase goods, if you please. He goes around and tests the market and makes his own best judgment, and then he buys his goods where he thinks he gets the best terms.

Senator PLATT, of Connecticut. Can you think of any better rule to establish for the determination of actual value than market value?

Mr. COUCH. No, sir.

Senator PLATT, of Connecticut. That is the best that can be done?

Mr. COUCH. It is the best you have.

Senator JONES, of Arkansas. It is a variable quantity.

Mr. COUCH. It is a variable quantity, and for that reason you have to make an arbitrary decision in the law that the finding of a certain tribunal shall be final and conclusive on all parties in interest.

Senator JONES, of Arkansas. As to that case.

Mr. COUCH. Having created that tribunal, then the question is, shall you make the law so that the importer at the time of making his entry can not conform to it? That is the thing in a nutshell.

Senator PLATT, of Connecticut. The suggestions in the communication prepared by you all seem to look to the relief of the importer from disabilities and annoyances, which relief you think can be extended without loss to the Government. Have you any suggestions to make with reference to amendments which would improve the law in the direction of making it more certain that undervaluations would be detected and the proper duties collected?

Mr. COUCH. I think the key of the situation is in having valid, uniform appraisements. In making those appraisements of market value with reference to different classes of goods, I think the value should be made along the general trend of the market for the season, if you please, and that you should not attempt to follow every feverish fluctuation. An ad valorem duty aggravates feverish fluctuations. A specific duty tends to steady the market. If you follow that general trend, the importers and merchants will have a degree of certainty with reference to the duties they have to pay, and that element of certainty is a very important one in promoting healthy business. I do not think there is anything you can put into the law which will supply the place of practical knowledge, and in the matter of valua-

tions the remedy is to have the expert knowledge right at the point where values are to be determined legally.

Senator PLATT, of Connecticut. Does any improvement occur to you in respect to the practice of allowing nine-tenths of the packages of the invoice to go into the hands of the importer at once under the ten-day bond?

Mr. COUCH. The only alternative for that, with the privilege which already exists with the collector and the appraisers to require a larger quantity, if necessary, would be to make a law requiring that all ad valorem goods shall be held by the Government until the appraisal is complete; but if you attempted that I think you would have a town meeting which would extend from New York to Washington.

Senator PLATT, of Connecticut. You do not think of any middle course between that and the present practice?

Mr. COUCH. No, sir. I judge that from the hornet's nest that gathers around our ears every time we order a full importation into the stores.

Senator PLATT, of Connecticut. Do you remember the section of the Revised Statutes which provides for ordering goods into the public stores?

Mr. COUCH. I can get it for you in a moment. (A pause.) Section 2899 provides for the ten-day bond, and section 2901 for the sending of packages.

Mr. BIDWELL. I do not see how that could be done. We would not have storage room to hold all the ad valorem goods until the appraisal is completed. It would be something awful.

At 1 o'clock p. m. the subcommittee adjourned until Friday, November 18, 1898, at 11 o'clock a. m.

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OFFICE OF THE BOARD OF GENERAL APPRAISERS,  
*New York City, N. Y., November 18, 1898.*

The subcommittee met at 11 o'clock a. m.

Present, Senators Platt, of Connecticut, and Jones, of Arkansas.

Senator PLATT, of Connecticut. The subcommittee of the Finance Committee, representing the whole committee, is making an inquiry with reference to the efficiency of the customs administrative act, with a view to seeing whether there are defects in it which may be remedied or improvements which may be suggested, and not with reference to particular cases in which importers feel that they are not justly treated by the officers. That is not the primary object of the hearing. It is to inform ourselves with reference to the administrative features of the customs laws and how they work. Several gentlemen have indicated that they would like to make some suggestions, and those who are here can, according to their own convenience, now be heard.

**STATEMENT OF P. B. WORRALL.**

Mr. WORRALL. I represent Fred Butterfield & Co., purchasing importers. I am going to start at the inception of what I call the public-stores business, if you will permit me. I shall not take very much of your time. I have believed for several years, and believe

now, that the carting of the public-stores cases to the public stores could be very much improved. My method to accomplish that improvement would be to allow the steamship companies, responsible companies, to make proper regulations to bring those public-stores packages to the public stores. I believe, if that method were adopted, twenty-four to forty-eight hours would be saved simply in getting the cases of goods here. That is one of the causes of trouble. Of course it is a minor point, but it is very important in the aggregate. It would save an enormous amount of interest.

Senator PLATT, of Connecticut. Who carts the cases now?

Mr. Worrall. They are carted under contract, and the reason why the cases are not brought more promptly to the public stores is that the contracts are taken at very low prices, and the party who carts the cases waits until he gets a sufficient number to make a load. He goes from one dock to another, and in that way a good deal of time is lost.

Senator PLATT, of Connecticut. In either case they would be delivered to the carrier on the order of the collector at the custom-house?

Mr. Worrall. Yes; I judge so; just as they are delivered now. But I believe the process can be very much expedited.

Senator PLATT, of Connecticut. With proper administration could they not get the cases here under the present system just as quickly as under any other system? Is it a fault of administration?

Mr. Worrall. They are not brought so quickly as a merchant carts his merchandise.

Senator PLATT, of Connecticut. May not the collector, if it is under his control, as I suppose it is, compel them to be carted more promptly?

Mr. Worrall. We have had individual cases in which, after the trouble was ventilated, we got our public-stores cases sometimes a little more quickly. That is a minor point.

Senator PLATT, of Connecticut. It is a matter of a good deal of importance to get the cases as expeditiously as possible.

Mr. Worrall. One of the reasons is this. The law as it is and has been for a great many years requires the importer to keep his free cases intact for ten days after the goods are examined and passed upon at the public stores. According to present regulations, it is a sort of rule-of-three arrangement. About one case out of every ten is taken to the public stores, and of course if there are two cases, they take one; if there are ten, they take one or two, as the case may be. That particular law is dead and always has been.

Senator PLATT, of Connecticut. You mean that the importer gives bond to produce those cases if he is called upon, and he lets the goods go into consumption and can not produce them if called upon?

Mr. Worrall. It would be an absolute impossibility to comply with the law.

Senator PLATT, of Connecticut. How long may it take to have the case which is sent to the public stores examined and the duties liquidated?

Mr. Worrall. In the first place, Senator, consular samples of these goods come. Of course they come with the mail. They come, as a rule, fully twenty-four hours before the entries are made and the duties paid. Of course that is a very great advantage to the public stores. It seems to me that a proper regulation in that particular case would be to limit the time to about five days from the time the first free cases disappear from the dock.

Senator PLATT, of Connecticut. In other words, you think that

within five days the appraising officers ought to be able to determine whether they want those cases?

Mr. WORRALL. Yes. That gives them about seven days altogether, including the arrival of the consular samples.

Senator PLATT, of Connecticut. The collector now, if he wants to revise the action of the appraising division, can call the goods in?

Mr. WORRALL. As a matter of fact, he does call them in.

Senator PLATT, of Connecticut. I mean after the appraisal has been made here. Then it goes down to the collector's office, and a question is raised about it, and he investigates it. More than five days would elapse before that could be done, I suppose. The collector would not have an opportunity to call for the goods if the limit was five days after the work of the appraising division was transmitted to him.

Mr. WORRALL. The order for cases comes from the public stores. Senator PLATT, of Connecticut. The collector might do it?

Mr. WORRALL. I am talking about the ordinary course of business.

Senator PLATT, of Connecticut. You think that would be sufficient? At any rate, it would be very much better than as it is now?

Mr. WORRALL. It seems to me so. Of course we are all apt to look at these questions as our own business may present them. We begin at the commencement of the season, and we have the same identical character and quality of goods. Our business is done so plainly that any child who has any sense at all can follow it up. The qualities are all on the goods.

Senator PLATT, of Connecticut. Practically, if the goods have been entered for consumption, they are gone before they are called for?

Mr. WORRALL. As a rule. The law is a dead letter as it stands. Of course we have the samples.

Senator PLATT, of Connecticut. Do you think anything can be substituted for that law? The time being fixed as you think it ought to be, can any other system be devised for the appraisal of goods except to order one or more packages into the appraiser's stores and give the others to the importer at the time of their landing?

Mr. WORRALL. I know of no other. It can not be avoided. It is one of the penalties we have to pay.

Senator PLATT, of Connecticut. What about the samples?

Mr. WORRALL. The samples come by mail.

Senator PLATT, of Connecticut. Does the importer take out the samples and keep them when he lets the goods go into consumption?

Mr. WORRALL. Usually he has samples of the goods. His goods are sold by samples.

Senator PLATT, of Connecticut. The practice, when the goods are called for and can not be produced, is to have samples which are furnished?

Mr. WORRALL. Yes, sir.

Senator PLATT, of Connecticut. What are those samples?

Mr. WORRALL. They are samples, in our case, cut right from the pieces of goods.

Senator PLATT, of Connecticut. Are they taken from the packages which come into your possession, or are they samples which are sent otherwise?

Mr. WORRALL. They are cut right from the pieces of goods themselves—from the packages.

Senator PLATT, of Connecticut. Is it the practice of importers generally to keep and preserve samples, so that if goods are ordered in—

Mr. WORRALL. The consular samples are very different from those. Senator PLATT, of Connecticut. I understand that; but with respect to the goods which are delivered to the importer and he lets go into consumption, is it the universal practice to reserve samples from those goods?

Mr. WORRALL. He does not cut samples from the goods here. They are made up on the other side.

Senator PLATT, of Connecticut. I do not quite understand you. When I asked you what the samples were, I understood you to say they were samples that were cut from the goods.

Mr. WORRALL. I was talking about consular samples.

Senator PLATT, of Connecticut. You were talking about consular samples all the while?

Mr. WORRALL. Yes, sir.

Senator PLATT, of Connecticut. Are those the samples which the importer frequently offers to produce here in place of the goods?

Mr. WORRALL. No. He has not those samples. They are in the possession of the custom-house. They are retained here. The samples that come to the custom-house are the samples of merchandise forwarded by the consuls.

Senator PLATT, of Connecticut. Does he cut them from the goods in the packages which are delivered to him?

Mr. WORRALL. Yes; they must be.

Senator PLATT, of Connecticut. Is that a common practice?

Mr. WORRALL. Yes, sir; I judge so.

Senator PLATT, of Connecticut. Does it apply equally to all classes of goods? You can cut a sample from a piece of goods, but suppose it is a bundle of hides; do they take out a hide as a sample?

Mr. WORRALL. Oh, no. I am talking entirely about textile fabrics, which can be followed up without any difficulty.

Senator PLATT, of Connecticut. I suppose there are classes of goods where it would be very difficult to take samples?

Mr. WORRALL. It is not possible with all goods. In the first place, the goods vary very much. Our goods are not expected to vary.

The next point to which I should like to call your attention is the penalty on any advance, as it is called. I refer to section 7. Formerly, before a penalty was assessed, the importer's goods had to be thought to be worth by 10 per cent more than their entered value. That was obliterated, and now the penalty is put on any advance. This matter was thrashed out very fully with Senator ALDRICH, and his judgment finally was that there should be a limitation of 5 per cent before the penalty should be enforced.

Senator PLATT, of Connecticut. You think it would be a good amendment to make it 5 instead of 10 per cent, as it used to be, or 1 per cent, as it is now?

Mr. WORRALL. I think so. I think there ought to be some leeway. Our practical experience teaches us that.

Senator PLATT, of Connecticut. Is it not the effect of the present law, practically, that if there is not more than 1 or 2 or 3 or 4 per cent undervaluation, as we will call it, goods are not advanced? Are they advanced 1 or 2 per cent and the penalty put on?

Mr. WORRALL. Certainly.

Senator PLATT, of Connecticut. Do you not think there are cases where the appraising officers, with an undervaluation of 1 or 2 per cent, especially with the penalty, rather give the benefit of the doubt to the importer?

Mr. WORRALL. No. It is published almost daily. There is another thing in connection with the matter which I think is very wrong, indeed, and very unfair to the merchants, and that is that in the statements of advancements made, the qualities of goods are given and the prices at which the goods are invoiced. You can very readily understand how very unfair that is. It gives a man's business away to the customers, if the customers are clever enough to follow it up.

Senator PLATT, of Connecticut. Who makes it public?

Mr. WORRALL. It is published by the Board of General Appraisers. It is published by order of the Secretary of the Treasury under section 18. We think that should be stopped. I have very little interest in it myself.

Senator PLATT, of Connecticut. Do you not think that the decisions of the Board of General Appraisers ought to be published and communicated to all the custom-houses for their enlightenment?

Mr. WORRALL. For instance, we have cloth. We buy 5,000 pieces of it for a season, and there is some discussion about the value, and it is published that these goods "of Fred Butterfield & Co., 199 worsted goods, invoiced at 2 shillings 6 pence; no advance." The whole trade knows the story. Yet it may be a fancy thing that we have been working at for six months to get into shape. That is very unfair.

Senator PLATT, of Connecticut. But the decisions of the Board of General Appraisers have to be published in some form for the guidance of all the custom-houses of the country.

Mr. WORRALL. I should say for the information only of the Government officers. I do not see why the public should know. It is giving undue publicity to a man's business. We have so little friction with the Government that it seems almost foolish for me to bring this matter to your attention; but I know the thing is wrong and it should be changed.

The next matter is the most important of all. I speak only in regard to textile fabrics. There are other things from various portions of the world that come here which might be affected differently.

There seems to be a determined effort on the part of the consignment interest to have the same advantage to advance the value of their invoices for dutiable purposes as purchased goods have. I will tell you why we consider that, from our standpoint, to be very wrong, and the best way to explain it is to give you a practical illustration. For instance, I go to the Yorkshire district in February and buy goods for the following fall. On the same steamer there is a man who represents a large manufacturing concern, with practically the same ideas. We both order the same character of stuff. I order my goods at a price which I have to pay for them, and he tells the manufacturer that the stuff, he thinks, will sell well the ensuing season, and he recommends a large production of it.

As a rule it takes from two to five months to complete anything like a large order, and when the time for the shipment of the consignment comes around those people have a right, under the law, to invoice their goods at the market value at the time of shipment. We have no such right. If the market has decreased 25 per cent, we still have to invoice our goods at the price we pay for them.

Senator PLATT, of Connecticut. If the market has gone up, you can make additions?

Mr. WORRALL. Yes; that is the only right we have. If the purchasing importer—the man who bought his goods—had the same right

to invoice his goods at the market value at the time of shipment, we would have no objection to the consignment people having exactly the same right. But you can see how very manifestly unfair it is.

Senator PLATT, of Connecticut. It gives them an advantage over the purchasers.

Mr. WORRALL. I believe that particular thing has cost Fred Butterfield & Co. more than a quarter of a million dollars in an experience of sixty-one years and in the payment of probably a hundred million dollars of duties to the Government.

Senator PLATT, of Connecticut. You mean by being compelled to pay duty on your invoice value, whatever the market price may have been at the time of the shipment?

Mr. WORRALL. Yes. To make the matter clearer, you know, of course, as everybody who has had anything to do with mercantile life knows, that about three-quarters of the time is spent in the dribbling down of values. The advances come quickly. That is the foundation of that particular reason.

Senator PLATT, of Connecticut. Take consigned goods. What may the consignee be? May he be the actual owner of the goods or a commission merchant?

Mr. WORRALL. He can not be the actual owner of the goods. He can be a commission merchant.

Senator PLATT, of Connecticut. He can not be the purchaser, either. There is a sharp distinction between goods sent to a purchaser and those sent to a consignee.

Mr. WORRALL. Yes; a very decided difference. So extreme has the thing become that I suggested to Senator Aldrich and Senator Allison that a differential increased duty of 10 per cent be placed on all consigned textile goods.

Senator PLATT, of Connecticut. Are goods sent from houses in foreign countries to houses here which are really a part of the foreign house, a branch of it, or the foreign house itself?

Mr. WORRALL. I should say a great many of the branches are phantoms.

Senator PLATT, of Connecticut. So that they are sending goods from a foreign country to themselves here for the purposes of sale here?

Mr. WORRALL. That is done in very many cases.

Senator PLATT, of Connecticut. I wish you would explain the system a little. Formerly most of the importations came to people who had purchased goods.

Mr. WORRALL. That is right.

Senator PLATT, of Connecticut. Now, is that true to the same extent?

Mr. WORRALL. Nothing like it. Arnold, Constable & Co's experience will show you the very great change which has taken place. That is the reason why I used the term "phantom houses." As a rule, the people here have very little responsibility.

Senator PLATT, of Connecticut. Does that practice increase?

Mr. WORRALL. It always increases under a system of high duties. It is one of the inevitable results.

Senator PLATT, of Connecticut. Those people have an advantage over ordinary purchasers?

Mr. WORRALL. Yes, sir. We are entirely purchasing importers. We import but few lines of goods—special lines of stuff. We have given up a great number of them.

Senator PLATT, of Connecticut. Unless somebody tells a lie about it, the invoice shows what you paid for the goods?

Mr. WORRALL. Precisely.

Senator PLATT, of Connecticut. In the case of consigned goods there is no purchase price to go by, and very often it is difficult to ascertain the market value in the country where they were produced.

Mr. WORRALL. We do not find that difficulty in Yorkshire. We can tell very closely. But, as a matter of fact, that business has been kept purer than any other importing business in the world; and I think the president of this board and other people connected with the administration here will tell you the same thing. There have been some cases. We have been able to catch most of them. But the great trouble comes from the continent of Europe.

Senator PLATT, of Connecticut. These consignees say very earnestly that they ought to have the same right to make additions to their invoice that the purchaser has; but why does the law make that distinction? Perhaps you have already explained it.

Mr. WORRALL. I can not tell; but it would be manifestly unfair if we are compelled in a falling market to invoice our goods at their cost, which we do and have done, and always expect to do so long as we remain in business, that the consignees should have the advantage at both ends of the line; that they should have the advantage of invoicing their goods at the market value at the time of shipment and have the same advantage at this end that we have.

Senator PLATT, of Connecticut. The reason of the law then is that when the goods are shipped from the other side the market value is known and fixed as of that date?

Mr. WORRALL. Exactly.

Senator PLATT, of Connecticut. There is no occasion to make an addition?

Mr. WORRALL. Precisely so. It would be the most unfair thing. I speak entirely in regard to textile fabrics. Many other things are imported into the country about which I do not profess to know anything; but I have been through this for a great many years.

Senator PLATT, of Connecticut. In other words, if there is an honest valuation at the time of shipment in the case of such goods, there is no occasion for making additions?

Mr. WORRALL. Of course not.

In the appeal on values, after an advance has been made, the importers have but forty-eight hours to make their appeal. The collector has practically an unlimited time.

Senator PLATT, of Connecticut. Do you think the collector ought to be limited?

Mr. WORRALL. We think what is sauce for the goose is sauce for the gander. There may be some reason for that which I do not know.

Senator PLATT, of Connecticut. The collector very often has to consult the Secretary of the Treasury as to whether or not he shall take an appeal?

Mr. WORRALL. Not on the question of value, for that is absolutely settled here. The thing is in very much better shape than it used to be. It is fixed finally.

Senator PLATT, of Connecticut. You think that making the decision of the Board of Appraisers final as to value is a good thing?

Mr. WORRALL. It is absolutely correct. I probably had as much to do with the creation of this board as any man in the United States; and it all came from some peculiar practices engaged in in the mer-

chant appraising business. I suppose Mr. Gibb and I had as much to do with it and lost as much of our time in connection with it as any two men in New York.

Senator PLATT, of Connecticut. I often hear it said that the honest importer, if I may use the phrase, the importer who does not wish to get his goods without paying the statutory duties, is more and more at a disadvantage in trade because other people do get their goods through without paying the full duty. Is that true?

Mr. WORRALL. We have had a good many cases where we have been compelled to go out of business. The firm of Butterfield & Swire, at Shanghai, is probably one of the most important concerns in China. It was established by one of our senior partners. A few years ago, when these plain canton pongees sold, we exported them to the extent of 20,000 pieces for a season. We finally discovered that there was something wrong about the value, and merchandise commenced to come in through San Francisco and Seattle. We called the attention of the Government to it, but nothing was ever done. We simply had to go out of that line, and that has occurred in a great many other cases.

In reference to bringing samples from the various outports to New York for comparison, I will state that that is a thing I strenuously insisted upon after the creation of this board. I do not think it was carried out. I think it ought to have more attention than it has had. Of course it involves a great deal of trouble and work for the customs officers, and they say it is impossible to do it; but it should be done and it can be done.

Senator PLATT, of Connecticut. We are told by representative importing houses that with all their capacity and facilities for buying goods cheaply on the other side, they find those same goods being sold in the market here at a price with which they can not compete.

Mr. WORRALL. There are gentlemen present who can tell you that story. I know it to be the case.

One of the old appraisers of the port was General Ketcham, and he and I used to talk about the duties on silk goods. I met in Paris once a gentleman who represented Murphy, Grant & Co.; poor fellow, he is dead now. I asked him, "When are you going home?" He said, "Not for some time." I met him on Broadway in New York shortly thereafter, and asked him, "Why did you come home so suddenly?" He said, "I have come out to buy Lyons silks and Crefeld velvets." I said, "You lived within a night of either of those places. Why did you not buy them there?" He said, "I can not buy them there. I have to buy them in New York, as other people do, in dollars and cents. I can not import them."

Senator PLATT, of Connecticut. Is that a somewhat serious complaint?

Mr. WORRALL. I do not deal in that kind of stuff. I only know those facts. There are gentlemen here who can tell you all about it. They all have ample capital to do the business. Still, it can not be done.

Senator PLATT, of Connecticut. If one merchant here can sell foreign goods at a price with which the regular and reputable importing houses can not compete, what can be the reason for it, except that he is getting them in without paying full duties upon them. Can there be any other reason for it?

Mr. WORRALL. No, sir. There can not be any other reason, except

the slight difference which comes in the administration of a business as to its cost. That is all.

Senator PLATT, of Connecticut. That would not prove such a serious obstacle?

Mr. WORRALL. No, sir; that is the only thing, and it is very small.

Senator PLATT, of Connecticut. It would not be a serious obstacle to a large importing house who were trying to do business on straight principles?

Mr. WORRALL. We have felt the stress of this thing so severely that I suggested the imposition of an extra ad valorem duty of 10 per cent on consigned goods. I believe that would be one of the ways to prevent it. Senator Allison was pleased to say that he thought it was one of the best propositions ever brought to Washington.

### STATEMENT OF JOHN GIBB.

Senator PLATT, of Connecticut. Whom do you represent?

Mr. GIBB. I am a member of the firm of Mills & Gibb.

Senator PLATT, of Connecticut. They are very large importers?

Mr. GIBB. Yes, sir.

Senator PLATT, of Connecticut. Probably as large as any in New York?

Mr. GIBB. The largest in our line.

Senator PLATT, of Connecticut. Your line is somewhat extensive, too?

Mr. GIBB. Yes, sir.

Senator PLATT, of Connecticut. We shall be glad to listen to any suggestions you may have to make.

Mr. GIBB. Senators, I have no fault to find with the custom-house, the tariff, or any of these details on which Mr. Worrall has enlightened you. I have been importing goods on my own account for thirty-three years, and in all that time I have had one invoice advanced, and that was sustained by the general appraiser.

There is one great difficulty—there is nothing worth mentioning outside of that—and that is the subject of the immense undervaluations. I do not care much whether a case stays here five days or ten days. Sometimes it is very inconvenient to have it stay here at all.

I do not care much how the carting is done; but I do care as to paying 60 per cent on a hundred cents when men all around me are paying 60 per cent on 40, or 50, or 60 cents. That is the thing that is driving and has driven almost all purchasing importers out of business. The question whether the penalty shall be imposed at 1 per cent or 5 per cent amounts to little. I think the present system is right enough; that wherever an undervaluation can be proved, the penalty ought to apply; but so far as I know, no one has suffered from the indiscriminate putting on of the penalty on a small advance.

I think the appraisers and the general appraisers, when it comes to a matter of 2 or 3 or 4 per cent, generally say that is near enough, and so it is. I do not care what duty you impose, whether it is 40, or 50, or 60, or 100 per cent, so that we all pay alike; but the trouble is that the man who pays the honest duty is the exception. The rule is not to pay it.

Senator PLATT, of Connecticut. You say this as a result of your business experience?

Mr. GIBB. I say it as a result of my everyday experience, and every-

day it is getting worse. It has got so bad, that we go to Europe with money in our pockets or credit as good as money, and they say they can not sell us except in American money. "Why?" "We have made other arrangements." It has recently transpired that the arrangements are that they will invoice goods at 40, or 50, or 60 cents, while they charge us a hundred. That is the reason why.

Senator PLATT, of Connecticut. What is your line of importation?

Mr. GIBB. Lace curtains, laces, linens, white goods, embroideries, fancy articles known as notions, kid gloves.

Senator PLATT, of Connecticut. You are connected with a foreign house?

Mr. GIBB. My partner resides at Nottingham. We have offices in Paris, St. Gall.

Senator PLATT, of Connecticut. You do not believe, as was suggested to us the other day, that 95 per cent of the importers really want to pay duty on the actual value of their goods?

Mr. GIBB. It depends upon what kind of importers they are. I do not believe that foreign manufacturers, who establish clerks here as their representatives and consign their goods to them, pay the full duty.

Senator PLATT, of Connecticut. You know what you pay for goods and at what they are invoiced to you. Do you see invoices of the same character of goods that are different?

Mr. GIBB. We do not see the invoices. We have samples.

Senator PLATT, of Connecticut. Declared values?

Mr. GIBB. I beg pardon?

Senator PLATT, of Connecticut. Declared values?

Mr. GIBB. We have samples brought to us from this building to put values on, and we learn after a while that the invoice that those represent has been advanced because the goods were undervalued. But we have the plain statement of the men themselves, importers or agents of manufacturers, who say, "What can we do; everybody is doing it. If we do not do it, we will have to go out of business."

Senator PLATT, of Connecticut. And reputable importers, who want to be honest, have to struggle with that condition of things and are being seriously interfered with?

Mr. GIBB. They are being driven out of business. Go up and down the city and across it, and how many American importers' names do you find on the houses?

The Dingley act has been sneered at as a bill for deficit. It is a bill for deficit, because the administration of it is not honestly carried out. The Government does not get more than 50 or 60 per cent of its legitimate duties on the ad valorem schedules.

Senator JONES, of Arkansas. Are the collections any worse than before the passage of the Dingley act?

Mr. GIBB. I think they are. I think within the last few months things have been mending, because a good deal of agitation has been going on upon that subject. We found a man the other day who has been doing a large business in the city of New York for nine years, with an establishment on Broadway, who had not had an entry in any port of the United States for ten years.

Senator PLATT, of Connecticut. Was he selling the same sort of goods that other people are importing and paying duty on?

Mr. GIBB. Yes.

Senator JONES, of Arkansas. How did he do it?

Mr. GIBB. He had a little arrangement down here with the steamships.

Senator JONES, of Arkansas. He smuggled in the goods?

Mr. GIBB. He smuggled in the goods. But I have more respect for him, I am free to say, than I have for hundreds of men who are going down to the custom-house and taking a false oath three and four times every week.

Mr. WORRALL. That is right.

Senator JONES, of Arkansas. So have I. Would it not be practicable to put a few of these men in the penitentiary?

Mr. GIBB. That is the only thing that will ever stop it, and all I have to suggest is that the administrative act shall be revised and amended so that it will be possible when a man is caught red-handed defrauding the Government, to put him behind bars.

Senator PLATT, of Connecticut. You would make a limit there, that if he were found to have undervalued more than a certain per cent?

Mr. GIBB. Certainly: I leave you to boil that down.

Senator PLATT, of Connecticut. You would say that undervaluation beyond a certain percentage was evidence of criminal intent to defraud the Government?

Mr. GIBB. Certainly.

Senator PLATT, of Connecticut. And he is to be punished for it?

Mr. GIBB. Yes, sir; we had a law at one time which was very severe, but it was abused in a very prominent case, the case of Phelps Dodge, and was wiped entirely off the statute book, and nothing has taken its place. What happens? A man goes on undervaluing goods for a series of years. He retires from business, and he will tell you in confidence, as they have told my partner in Europe, "Mr. Mills, I made my money out of the custom-house." They do not think it is anything wrong. The law is now very defective. A clear case occurred in this port early this year, where the fraud was as clearly proved as it is possible to prove it. The man was on the verge of State prison, and the whole thing was dismissed.

Senator JONES, of Arkansas. What case is that?

Mr. GIBB. That is the case of Marshall Field, and I can not call the name of the house in St. Gall. It is a well-known case.

Senator PLATT, of Connecticut. Here is section 9, which provides for forfeiting the goods and punishing a man. I am told there has never been a case of forfeiture until recently; that there has been one case of forfeiture which has been determined under the act, so that the man there would be liable to a criminal prosecution.

Mr. DANIEL MCKEEVER. At the end of section 9 I would suggest that you strike out the word "or" and insert "and," so as to make it mandatory.

Senator PLATT, of Connecticut. Mr. Gibb, have you anything more to say?

Mr. GIBB. No; that is the burden of my complaint.

#### STATEMENT OF JAMES MCCREERY.

Senator PLATT, of Connecticut. Mr. McCreery, do you wish to make some suggestions to the committee with reference to the administrative law; what defects there may be in it, and how it may be improved?

Mr. MCCREERY. Yes; I think the carting ought to be done by the steamship companies instead of as at present. The complaints are many and loud and grievous in regard to the neglect of the contractor, whoever he may be.

Senator PLATT, of Connecticut. Because of the delay in getting cases from the wharf to the public stores?

Mr. MCCREERY. Yes; they encumber the wharves of the steamship companies when they are loading their ships to go out, and sometimes the public-stores cases have been left there until the ship has sailed again, after discharging her cargo and taking on another cargo.

Senator PLATT, of Connecticut. How much quicker do you think you could get them here by any other method which could be devised?

Mr. MCCREERY. I do not know. I only think that the steamship companies themselves have a deep interest in disincumbering their docks of public-stores cases, and that they would get rid of them as quickly as they could, and that would be to the advantage of the importer. The steamship company would have a strong inducement to get rid of the cases, whereas the contractor has an inducement to do it when he is at leisure; when he is not pressed with other business.

Senator PLATT, of Connecticut. Have you any knowledge of practical delays in getting goods to the public stores after an order has been given to send them there?

Mr. MCCREERY. I do not catch the purport of your question.

Senator PLATT, of Connecticut. Have you knowledge of practical delays, in specific instances?

Mr. MCCREERY. I am not prepared with specific instances. I know that they are numerous. Take my own custom-house clerk, the clerk who attends to that business. I say, "Why is not such a case here?" and he says, "It has not got to the public stores yet." "Why?" "Because the contractor has not taken it."

Senator PLATT, of Connecticut. Is it all done by contract now?

Mr. MCCREERY. Yes.

Senator PLATT, of Connecticut. The Government lets a contract for that purpose?

Mr. MCCREERY. Yes; and the contract price pays very well for small packages and does not pay at all for large ones. I believe the contract price now is 15 cents a package. No man can cart from the various steamship wharves for 15 cents, or anything like it. It is not nearly enough for the large packages. It pays handsomely on the small packages.

On the penalty question, I think the penalty is too severe; that it defeats itself in a great measure. It is not possible to tell within a small percentage the market value of goods unless you have specific articles, with their numbers and qualities, and that is avoided as far as possible by dealers. They do not want to give away everything by giving the number and account and weight, all of which enter into the value of merchandise. The very best judge and the most honest man may make a difference of a small percentage. I think a penalty of 1 per cent for every 1 per cent raised—I think that is the law now—is so severe that it has a tendency to keep the examiner from putting on a small percentage, and he will let it go rather than put on a small percentage. I think 5 per cent, or even  $7\frac{1}{2}$  per cent, would be a safe margin.

I speak on this point not only my own feeling, but that of my associates in business—my partners and my chief men who are the heads of departments and who go to Europe and buy goods. They sometimes complain and think the examiner will pass the goods when he may have a doubt in his mind in regard to the value; whereas if there were no penalty he would put on 5 per cent in many cases where he does not now.

Mr. PLATT, of Connecticut. You think 5 per cent would be a pretty fair limit?

Mr. MCCREERY. I think it a pretty fair limit.

Senator JONES, of Arkansas. You think 10 per cent was an unreasonable limit?

Mr. MCCREERY. I do not think so on some goods. Ten per cent can be very easily found out on a great many staple goods; but when you come to fancies it is almost impossible.

Mr. GIBB. They always invoice them at 9½ per cent below market value and escape the penalty.

Mr. MCCREERY. Do you not think that very often a conscientious examiner is very careful not to put on a penalty of 1 per cent for every 1 per cent he raises an invoice unless he is quite sure and certain; and then, when he is quite sure and certain, I think there is perhaps fraudulent intent upon the part of the man who makes the invoice.

Senator PLATT, of Connecticut. Is market value in the foreign port, in the country of exportation, a fixed and inflexible quantity?

Mr. MCCREERY. No, sir. It is one of the hardest things in the world to find out.

Senator PLATT, of Connecticut. There may be a range within which any price may be said to be market value. Is that a little, a slight variation?

Mr. MCCREERY. There are a vast number of people on the other side, manufacturers in Europe, to whom the market value is the price they can get out of you. He will try for all he can get, and you have to be pretty sharp to know just what the market value is. I once before stated here on a similar occasion that when I make an offer to a European manufacturer, particularly on the continent of Europe—not so much on the British Isles—and he declines it, I think I have not offered him the market price; but if he gives me the goods, I am not sure but that I have given him a little more.

Senator PLATT, of Connecticut. And you, giving a very large order at wholesale, would perhaps get the goods a fraction cheaper than a man who is giving a small order, but who is buying also at wholesale prices.

Mr. MCCREERY. Yes; I am a dealer in dry goods. I am also a manufacturer of goods in the United States; I am a manufacturer of silk goods. Long warps can always be had cheaper; the cost to produce long warps is less than for short ones. A large quantity of a given color is cheaper than a small one. We do not care to make warps less than 240 yards, whereas many people want 40 yards; some less than that. Therefore we have to combine orders to get the minimum cost of production. Large orders cost much less to produce than small ones.

Mr. WORRALL. The goods do not exist in Europe as a rule. A man makes a sample and he makes up the goods in three, four, five, or six months.

Senator PLATT, of Connecticut. From your business experience you know it is claimed that goods are made up for the American market which have no sale in the market abroad?

Mr. MCCREERY. Yes; that often occurs. Goods are made up for the American market.

Senator PLATT, of Connecticut. Then I suppose you have to resort to the wholesale price in this country and figure back, getting at the cost of production the best way you can?

Mr. MCCREERY. Yes. I myself can make market value for the thing

that I order delivered here, and I do a good deal of that business, and am obliged to do it. There are first-class manufacturers in Europe who will not sell goods to an American buyer in the currency of his country. The manufacturer will sell them in the currency of this country. He will deliver them at our stores for so much in dollars and cents. I say, then, there is so much expense in bringing those goods here; there is a commission to pay to the house that delivers the goods, which may be arrived at, and so much discount upon the bill for cash here; and I can very easily bring it to a net cash basis. Then, when I take the Government duty out of the remainder and what is submitted to the other side, it makes the market value. It can be very clearly calculated. On goods delivered here, the price at which they are delivered forms a basis of what ought to be the market value on the other side.

Senator PLATT, of Connecticut. In your business do you meet competition in foreign goods which seems to you to be the result of those goods being imported without paying the proper duties?

Mr. MCCREERY. Without being invoiced at the proper price, because the specific part of the duty can not be escaped.

Senator PLATT, of Connecticut. No.

Mr. MCCREERY. If the examination is properly made it can not be. Yes, we meet such competition, particularly upon such goods as are of high value and small bulk. I do not think it is possible for any law to be made or any vigilance to be exercised to prevent the bringing in of goods of large value and small bulk, not only on paying less duties, but without paying any duty at all. I think a great many goods come into this market from across the Canadian line or into some of our more obscure ports that do not pay any duty at all.

Senator PLATT, of Connecticut. Do you think the immediate-transportation law results in the passing of goods in interior ports at less than the real value, or have you not had your attention called to it?

Mr. MCCREERY. I have not had that point brought to my knowledge.

Mr. MCKEEVER. There is no question about it. It is a matter of general knowledge.

Senator PLATT, of Connecticut. I asked you whether, in the light of your own business experience, you think that is true.

Mr. MCCREERY. I do think so.

Mr. WORRALL. I can give you a case where we were absolutely compelled to stop the importation of goods. That is why I made the statement in reference to bringing the samples from outports to New York for comparison. It ought to be done. It should have been done long ago.

Senator PLATT, of Connecticut. I wish to ask a question about consular samples. Do those necessarily represent the goods which are in the packages?

Mr. WORRALL. They are cut from the goods.

Senator PLATT, of Connecticut. Where are they cut?

Mr. WORRALL. In our own warehouse in Bradford.

Senator PLATT, of Connecticut. Suppose a man wants to defraud the Government; will he give the consul the real samples?

Mr. WORRALL. They have the goods here to compare with. There is no getting away from that. Nobody knows what cases are going to the public stores.

Senator PLATT, of Connecticut. There is no opportunity for fraud there?

Mr. WORRALL. Not if proper vigilance is exercised here and comparisons are made with the consular samples. I call that a very wise

provision. It was intended originally to expedite the delivery of public-stores cases. It has not had that effect.

Senator PLATT, of Connecticut. The consul makes no examination of the goods?

Mr. WORRALL. Yes, he does. If he is a proper consul, he does. He examines the goods and compares the samples with the invoice for value. They can not examine the goods. They examine the samples. That is what I meant to say. They examine the samples of the goods on the invoices.

Senator PLATT, of Connecticut. That does not amount to a great deal?

Mr. WORRALL. That is the way the goods are bought. Thousands of pieces of goods are bought from samples smaller than consular samples.

Senator PLATT, of Connecticut. Does the consul know very much about values?

Mr. WORRALL. He ought to know.

Senator PLATT, of Connecticut. Does he, in fact?

Mr. WORRALL. If you will promise not to tell, I will say no. We have had but one consul in thirty years in Bradford who ever went into the matter. We tried to keep him there, but the exigencies of our political life were such as to prevent his being retained.

Mr. MCCREERY. By the time a man learns the business, they turn him out and another takes his place, and by the time the second man learns it another stranger comes.

Mr. WORRALL. That is true.

Mr. MCCREERY. That part of the business is all wrong.

Senator PLATT, of Connecticut. Please state whether, as a matter of business experience, you think the consuls abroad are giving very intelligent consideration to this matter, or whether they are simply making formal certificates.

Mr. WORRALL. The last statement is entirely correct, owing to the duration of their term of office. There is no reason why they should do differently.

Senator PLATT, of Connecticut. Mr. McCreery, is there anything else you wish to suggest?

Mr. MCCREERY. I do not think that when goods are consigned the consignee ought to be allowed to make any advance. The people who consign goods here ought to know the market value in their own market. But goods ordered are made, and it takes from three to six months to make and ship them, and the market may change between the time when the order is given and the time when the goods are shipped. I think in that case the purchaser ought to have the privilege of adding to his invoice. But when goods are consigned, then they are supposed to be consigned at the market value of the day, and the consignee should run the risk of the penalty if he undervalues—if he does not value them right up to the market.

Senator PLATT, of Connecticut. The purchaser may purchase the goods a month before their shipment?

Mr. MCCREERY. Yes, sir.

Senator PLATT, of Connecticut. In the meantime the goods may have advanced?

Mr. MCCREERY. Yes, sir.

Senator PLATT, of Connecticut. Those goods are appraised at the market value at the time of shipment?

Mr. MCCREERY. The law requires it.

Senator PLATT, of Connecticut. When a man consigns goods, not having been purchased, he ought to know the market value on the day when he consigns them?

Mr. MCCREERY. Yes, sir.

Mr. WORRALL. A man who purchases is compelled to invoice the goods at the price he pays for them. That is why I strenuously oppose any change in the law in that respect, so far as concerns consigned goods.

Senator PLATT, of Connecticut. He has to pay on the invoice value. You think that is a good provision, which has been in the law for a long while, that duty shall not be assessed on anything less than the invoice value. Do you think you ought to have a right to show that the market value is less than the invoice value?

Mr. WORRALL. If the new plan is adopted, permitting the consignee to advance the invoice, certainly the people who purchase goods should have a right to invoice their goods at the market value at the time of shipment.

Senator PLATT, of Connecticut. No matter what they paid for them?

Mr. WORRALL. I should not change the law on that question if I was the sole arbiter in the United States.

Mr. MCCREERY. Those people ought to know perfectly well what the value of their goods is. There is no excuse for undervaluing them.

Senator PLATT, of Connecticut. I understood you to state, in private conversation, that a very large proportion of the dry goods imported are consigned to agents of the houses sending them over here.

Mr. MCCREERY. Yes, sir. They take orders for them on the same conditions that the purchasing importers give orders on the other side. They are orders given at a certain epoch for delivery at a certain other epoch, in dollars and cents.

Senator PLATT, of Connecticut. What would you say the proportion is?

Mr. MCCREERY. I can not tell you the proportion. I think more business is done in that way now than by direct importers.

Mr. WORRALL. There is no question about it.

Mr. MCCREERY. But I have no statistics. The facts ought to be obtainable here.

### STATEMENT OF JAMES A. PUNDERFORD.

Senator Platt, of Connecticut. Whom do you represent?

Mr. PUNDERFORD. I represent Punderford & Co. I desire to accomplish, Senators, precisely what these gentlemen do not want to have accomplished; but with reference to hides and not to textile goods. I shall endeavor to show you by a little statement the reason of that request. I am not speaking for myself exclusively, but I venture to say that, while I do not come here by authority, I do represent the entire hide-importing trade in this city, except the United States Leather Company, who are purchasing importers. I make that statement because there was recently a meeting in my office of nearly all the hide importers with reference to the business about which I have come to talk to you, and I know the unanimity of sentiment in regard to this question.

Senator PLATT, of Connecticut. You say the United States Leather Company are purchasing importers. What do you mean by that

statement; that they purchase the hides in the open market in the foreign countries?

Mr. PUNDERFORD. Yes, sir.

Senator PLATT, of Connecticut. How do the other importers get their hides?

Mr. PUNDERFORD. Purely as commission merchants. Perhaps you are aware that a few years ago the United States Leather Company was organized, taking in a hundred and five tanneries, with a capital of about \$60,000,000. They are nearly the exclusive purchasers of hides that are imported. There are a few tanneries outside of that organization, but they are comparatively few, hardly enough to make any competition. They have their own purchasers in Buenos Ayres and Montevideo, and those are the only markets I am aware of in which they purchase. Hence I call them purchasing importers. They are buyers almost exclusively of the hides the commission merchants receive. Different commission merchants all receive but do not import hides on their own account. They receive them for sale on commission and also make advances before the goods are shipped. But they are not purchasers.

Now, we have had very much difficulty for some time in entering our invoices, and we are in a deplorable state at present. It is in reference to a remedy that I desire to speak. Hides, as you are aware, were free of duty until the recent tariff act. They pay a duty of 15 per cent ad valorem. Before they were dutiable they were invoiced at any price you please, and, of course, there was no difficulty with the custom-house. They were invoiced at so many dollars per hide in the currency of the country. When the present act went into effect, they were invoiced at about four dollars and a half apiece in the currency of the country. That was gradually raised.

Senator PLATT, of Connecticut. There are different qualities of hides?

Mr. PUNDERFORD. I am speaking of what are called dry hides, because the other hides, being either dry salted or wet salted, are very few in proportion. I speak of dry hides.

When we entered the hides at \$5, we supposed we could go on entering them at \$5. Shortly the appraisers raised the value to \$5.50 apiece, then to \$6, and then jumped to \$7.50. Now, let me say that it makes no difference to the commission merchant what duties the hides pay. He collects the duties from the buyer of the hides. It is a part of the broker's contract that the seller of the hides shall pay the duties and make a bill to him and give to the purchaser of the hides a certificate of the amount of the duty he has paid, who shall reimburse him for what he has paid out, and also pay him any additional duties on the final liquidation, or rebate to the importer any duty in his favor. Every cent of the duty is paid to the commission merchant. Therefore, as commission merchants, we have no interest in the matter of duties. It is not a matter of profit to us that the hides should be invoiced at a low price nor a matter of loss that they should be invoiced at a high price, unless it should be, in the latter case, that they should be invoiced at so high a price as to affect the value of the hides in the estimation of the buyer. He might reduce his offer per pound to equalize the extreme duty paid. I wish to show clearly that it is a matter of no concern to the importing commission merchant what the duties are. He profits neither by low duties nor losses by high duties.

As the case stands at present, there are a great many invoices of

hides tied up. They can not be reached by the importer. He can not sell the hides. They have been advanced. They are in bond, and some are under general order. Hides have been received recently under an option bill of lading for shipment to Europe. They are shipped to Europe for the purpose of avoiding the penalty which would be inevitable. The business, therefore, is thoroughly demoralized.

Senator PLATT, of Connecticut. Do you complain that the appraisement is too high?

Mr. PUNDERFORD. I will not complain of that, sir.

Senator PLATT, of Connecticut. Who is to blame for consigning the hides at an improper valuation?

Mr. PUNDERFORD. I will answer the question, I think, satisfactorily. Most of the hides that are brought from South and Central America are brought from remote points to the place of loading for the port of New York. There is no market value, as a rule, at the place where the consular invoice is made. It is impossible to find their value. Consular invoices have been made recently at an exorbitant price by the commission merchant who forwards the hides for the interior owner to avoid what he fears will be a penalty. So I have received hides invoiced as high as \$9. A house received an invoice as high as \$10.50 per hide. I should think a fair value would be in the neighborhood of six or seven dollars per hide, as nearly as I can tell.

Senator PLATT, of Connecticut. You are a commission merchant here. From whom do you receive the consignment?

Mr. PUNDERFORD. We receive the hides like other products of South America, from the interior shipper, who lives remote from the coast, hundreds of miles. He gathers the hides.

Senator PLATT, of Connecticut. Does he send them to you, or do they pass through a commission house at Buenos Ayres or Montevideo?

Mr. PUNDERFORD. They pass through several commission houses, as, for instance, in the United States of Colombia, from Bogota, the capital of the country, whence a great many hides come.

Senator PLATT, of Connecticut. It is not the commission house in the city where they have an established market value that invoices them to you?

Mr. PUNDERFORD. That is true.

Senator PLATT, of Connecticut. It is not?

Mr. PUNDERFORD. It is not.

Senator PLATT, of Connecticut. It is the interior shipper—

Mr. PUNDERFORD. No, sir; it is at the coast, where they load.

Senator PLATT, of Connecticut. Ought he not know the value?

Mr. PUNDERFORD. There is no market value at those places. The hides are not bought and sold in the market. There is no tanning done in the country. There is no buying and selling of hides except by those who gather them in comparatively small lots and unite those lots to make a shipment. A large quantity of hides received from Colombia travel 600 miles before they get to the ocean, and no consular invoice can be made until they get to the consular port.

Senator PLATT, of Connecticut. On this particular article you think you stand on a different basis from the ordinary manufacturer who is consigning goods from a foreign country to be sold here?

Mr. PUNDERFORD. That is the case. I have listened with a great deal of interest to the argument of the gentleman in regard to textile fabrics. I think it correct. But here is an article as to which if we are permitted to advance the price we will interfere with nobody else in this city. There are no importing owners. We are commission

merchants. We shall derive no advantage over anybody else by being permitted to do what the importer of textile fabrics is allowed to do at present as an owner.

Senator PLATT, of Connecticut. If he is a purchaser?

Mr. PUNDERFORD. As a purchaser. We will not conflict with one another or with any local interest.

Senator PLATT, of Connecticut. Is it not of the slightest interest to you how the goods are entered?

Mr. PUNDERFORD. Not a particle; it makes no difference.

Senator PLATT, of Connecticut. You are liable—

Mr. PUNDERFORD. We are liable for the penalty.

Senator PLATT, of Connecticut. You are liable for the advance and the penalty?

Mr. PUNDERFORD. Yes, sir.

Senator PLATT, of Connecticut. You would not be troubled by the advancement?

Mr. PUNDERFORD. If there were no penalty we would pay the extra duties on an advanced invoice, but the penalty has to be collected from the shipper of the hides, and you can readily see the very great difficulty of doing it.

I wish to lay great stress upon the fact that there are thousands of hides in bond and under general order that we can not get hold of at the present time, and I should like, if it is possible, to have any action you may take or encourage made retroactive, so that the hides which are thus tied up can be freed.

Senator JONES, of Arkansas. Why can you not get them now?

Mr. PUNDERFORD. We can, in some cases, by paying an enormous penalty.

Senator JONES, of Arkansas. The penalty is the trouble?

Mr. PUNDERFORD. Yes, sir. I have invoices of hides which may be confiscated. They have been advanced 50 per cent. I will not say they will be confiscated, but the law permits it.

Senator PLATT, of Connecticut. And you are in no way to blame?

Mr. PUNDERFORD. No; no one is. The man who made the invoice did not know the market value. The invoices have been advanced by the appraisers here from time to time, and we do not know when they will do it again, except to assume that they have got it at so high a figure that we are perfectly safe.

Senator PLATT, of Connecticut. By "going into general order," you mean that instead of withdrawing the hides for consumption you let them go into the warehouse?

Mr. PUNDERFORD. I mean that they are in position where, if possible, we can decide to export them. No entry has been made, neither free nor bonded. Nothing has been done with them.

Mr. MCKEEVER. The collector takes charge of goods unclaimed, so to speak, and it is called general order. He has designated certain bonded warehouses, which are known as general order stores, and the goods go into the stores and are permitted to remain unclaimed for a year.

Mr. PUNDERFORD. And until we choose to make an entry of some sort, either paying the duty or exporting the hides.

Senator PLATT, of Connecticut. Do you think the embarrassment you speak of applies to any other goods?

Mr. PUNDERFORD. I do not know. I should doubt it, however. I do not think it applies to any other branch. I think it is a peculiar

branch standing by itself. It is the only raw material which I recall that is dutiable.

Senator PLATT, of Connecticut. Could you properly put a specific duty on hides?

Mr. PUNDERFORD. We think so. We preferred it at the time of the enactment of the present law. We sought to have it so—the tanning interest and the importing interest.

Senator PLATT, of Connecticut. A duty per pound?

Mr. PUNDERFORD. A duty per pound. There would have to be classifications, wet-salted hides paying one duty, and dry-salted another, because of the difference in weight, and the price per pound would have to be graduated according to weight. It would be a very simple and feasible plan to have two classes of duties.

Senator PLATT, of Connecticut. That would let you out?

Mr. PUNDERFORD. Certainly. There would be no trouble, at least we think not, with specific duties. There is great inequality in having it so much per hide. Some hides will average 20 pounds per hide, some 28 or 29. In selling those hides they suffer in price because of the extreme duty they pay; so that an ad valorem duty works very badly.

Senator PLATT, of Connecticut. Perhaps I do not understand all these details, but why should the appraiser's office put the ad valorem duty upon hides? Is that a fair way of assessing it?

Mr. PUNDERFORD. The law requires it—15 per cent ad valorem.

Senator PLATT, of Connecticut. How do they determine the value of the hides? Is it arbitrary, or is it fixed by value per pound?

Mr. PUNDERFORD. Not per pound.

Senator PLATT, of Connecticut. Hides are not weighed?

Mr. PUNDERFORD. We do not know how it is ascertained.

Senator PLATT, of Connecticut. Is that a fair way to ascertain the value of a hide, when that value is so much per hide, without reference to the different qualities of hides?

Mr. PUNDERFORD. There is no fair way of fixing an average value. From my interviews with the appraisers I judge they have advanced the hides under a misapprehension in one respect. They have, as they suppose, ascertained the market value here, and they have judged that the invoice value was too low in proportion to the market value.

Senator PLATT, of Connecticut. But are the hides sold anywhere by the hide, or are they sold by the pound?

Mr. PUNDERFORD. They are sold by the pound, and upon a selection which they have ignored, in my judgment. For instance, 15 cents a pound for dry hides; two-thirds price for the bulls; half price for those unfit to tan. That is the selection made of every lot of hides delivered. So the average price of a lot of hides will depend upon the proportion of selection of inferior hides.

Senator PLATT, of Connecticut. They invoice to you by the hide?

Mr. PUNDERFORD. By the hide. I think hides have been advanced unduly by the appraisers. I appealed in one case to the Board of General Appraisers, and had a hearing, which has been deferred for ninety days. Very many of the importers, many of them larger importers than I am, are interested very deeply in this matter. I saw the representative of one of the largest houses yesterday, and I said I had received a line permitting me to come before the committee, and I asked him to come. He said it was a busy day. It is our mail day; it is a very busy day for us. I was not willing to lose the

opportunity to appear here, however. I speak for them as well as for ourselves. We are in a great deal of trouble. We should like to get out of it and get our property.

If we can have relief, which I have endeavored to show would not militate against any interest whatever, either the Government or any receiver of hides, by being permitted to advance our hides to market value prices, such even as the appraisers may say are the market value prices, and that ruling could be applied to the hides now tied up, it is all we ask at present.

Senator PLATT, of Connecticut. Do you not see a difficulty in establishing that rule for the consignee of one kind of goods and not having it apply to all?

Mr. PUNDERFORD. I do not see any difficulty. I thought that over while I was listening to the gentleman concerning textile fabrics. I can not see why a discrimination can not be made in favor of hides. It is probably the only article which will be presented on that basis. It is a raw material. It is not a manufactured article. It is not an article which is imported by anybody in the way textile goods are. Hides are all received on consignment. No advantage would be derived by one over another.

I wish to emphasize particularly my desire for relief concerning the hides which have been advanced as I deem extravagantly and without any remedy to us and which have been for months tied up. We can not get possession of them without paying an enormous penalty. As you have justly observed, it is without any collusion on our part with the invoicers. We are entirely innocent. Nobody is to derive any advantage from it. If we can have those hides released at any fair price, we will pay a small penalty and we will sell them.

Senator JONES, of Arkansas. You mentioned the fact that some company is buying and exporting hides.

Mr. PUNDERFORD. Importing hides from the River Plata only.

Senator PLATT, of Connecticut. The United States Leather Company?

Mr. PUNDERFORD. Yes.

Senator JONES, of Arkansas. Do they have any difficulty?

Mr. PUNDERFORD. No, sir; I suppose not, because as owners they can advance their invoices. They are the buyers of our hides—ninetenths of them.

Senator PLATT, of Connecticut. You can not sell the hides to them now?

Mr. PUNDERFORD. Not unless we get possession of them. We can get possession only by paying enormous penalties.

Senator PLATT, of Connecticut. Then you could not sell them at any profit to the consignor?

Mr. PUNDERFORD. Not at all. As I said, I should like to impress upon your minds the fact that the entire trade in New York—the importing commission merchants in hides—have invoices of hides which they can not reach, except by paying extravagant penalties, and it is not because of any fault on their part. Without prejudice to any interest it seems to me some relief should be afforded.

Mr. GIBB. Does that come under the administrative customs act?

Mr. PUNDERFORD. Yes.

Mr. GIBB. Would it not open the whole tariff question?

Mr. PUNDERFORD. No more than the question of cartage opens it.

Senator PLATT, of Connecticut. Which section is it that provides that the consignee may not add to his value?

Mr. MCKEEVER. Section 7.

Senator PLATT, of Connecticut. As amended?

Mr. MCKEEVER. In the new act.

Senator PLATT, of Connecticut. It says:

"But no such addition shall be made upon entry to the invoice value of any imported merchandise obtained otherwise than by actual purchase."

Suppose you should say, "But no such addition shall be made upon entry to the invoice value of any imported manufactured or partially manufactured merchandise."

Mr. GIBB. That would leave out raw material.

Mr. PUNDERFORD. There is no objection to that.

Mr. WORRALL. We are all willing to help Mr. Punderford out.

Senator JONES, of Arkansas. That would apply to the drug business, too?

Senator PLATT, of Connecticut. It would apply to a variety of raw materials.

Mr. PUNDERFORD. It is more urgent for the reason that until recently we have been permitted to send back for corrected invoices at advanced prices, but we are now debarred from that privilege.

Mr. GIBB. How would it do to add "except hides?"

Senator PLATT, of Connecticut. It is a pretty difficult thing in a general law to except a particular article.

Mr. GIBB. It would be special legislation.

Mr. MCCREERY. I am afraid if the bars are let down for one thing there will be a rush of other trades. A sure cure, if you were considering tariff matters, would be a specific duty of so much per pound. Let them keep the bad hides at home.

#### STATEMENT OF JOHN N. WRIGHT.

Senator PLATT, of Connecticut. You represent Arnold, Constable & Co.?

Mr. WRIGHT. Yes, sir. Of course this question has been pretty well thrashed over. We are importers like Mr. McCreery and Mr. Gibb, but we feel that there should be a little advance before the penalty commences. We think probably 5 per cent would be a fair advance.

In regard to consignments, we think there should be no allowance to make market value.

Mr. WORRALL. For consigned goods?

Mr. WRIGHT. For consigned goods.

Senator PLATT, of Connecticut. No addition?

Mr. WRIGHT. No addition on consigned goods to make market value. They know the market value at the time of the shipment of the goods.

Senator JONES, of Arkansas. For the same reason given by the other gentlemen?

Mr. WRIGHT. Yes, sir. Most of these consigned goods are not consigned in the strict acceptation of that word. They are goods which are sold three and four months before they are sent away from the other side. They are sold here in dollars and cents, and they come here to be delivered, as a general thing, to a dummy simply. The agent here may be a dummy, or the goods may come to a custom-house broker who is a dummy. The fact is, they are sent in not on speculation, like consignments are generally, but they have already been sold.

Senator PLATT, of Connecticut. Let me see if I understand you. A manufacturer in Germany establishes an office or branch of his house in New York. The person in charge of that office sells the goods to the trade here in New York for a specified price, and the manufacturer abroad delivers them here to the purchaser through the man who has taken the orders?

Mr. WRIGHT. That is all. Really, he takes the orders, the orders are fulfilled on the other side, the goods are shipped to him, and he delivers them.

Senator PLATT, of Connecticut. There is a system of getting orders through commercial travelers, sometimes called drummers. Do such houses have their drummers out through the country taking orders?

Mr. WRIGHT. Oh, yes; all over the country.

Mr. Worrall. There is no difference between New York and the balance of the country in that respect. Marshall Field and Arnold, Constable & Co. are on the same basis exactly.

Senator PLATT, of Connecticut. The dummy, as you call him, or the agent is doing the same that Marshall Field and Arnold, Constable & Co. are doing—sending out all through the country to sell goods?

Mr. WRIGHT. To take orders.

Senator PLATT, of Connecticut. You come in competition with that trade, and you find that they are delivering their goods at a price with which you, purchasing similar goods abroad, can not compete?

Mr. WRIGHT. We do.

Senator PLATT, of Connecticut. That makes you think they get the goods in at an undervaluation?

Mr. WRIGHT. Most undoubtedly.

Mr. Worrall. I should think perhaps it is a fair proposition to say that Arnold, Constable & Co. do not buy abroad 10 per cent of the amount of stuff they did fifteen years ago.

Senator PLATT, of Connecticut. Is that true?

Mr. WRIGHT. I do not know that it is so big a percentage; but I should say at least 60 to 70 per cent of our silks, our dress goods, are bought in dollars and cents.

Mr. McKEEVER. Delivered in New York city?

Mr. WRIGHT. Delivered in New York city.

Mr. McKEEVER. Duty paid?

Mr. McCREERY. Delivered at your store.

Mr. WRIGHT. Yes.

Mr. GIBB. By the agent of the manufacturer?

Mr. WRIGHT. Yes, sir.

Senator PLATT, of Connecticut. The phrase "dollars and cents" has come to have a technical meaning. Does it mean bought in American currency from the person who here represents the foreign house?

Mr. WRIGHT. Yes.

Senator JONES, of Arkansas. Do you buy the goods which you get in that way abroad or here?

Mr. WRIGHT. As a general thing we buy here. The agent is here and he shows us the sample. We do buy them abroad, too.

Mr. GIBB. They refuse to sell you?

Mr. WRIGHT. Yes, except in dollars and cents abroad. But a great number of such orders are taken here.

Senator JONES, of Arkansas. Do you mean that they insist on delivering the goods at your store?

Mr. WRIGHT. Yes. They will not quote any mark or franc prices.

Senator JONES, of Arkansas. When you buy goods abroad in that way, to whom do the manufacturers consign them here?

Mr. WRIGHT. Their agent here, whoever he may be.

Senator PLATT, of Connecticut. When you buy articles abroad, when you make a purchase in Lyons, do they send the goods to their agent here?

Mr. WRIGHT. Yes, sir; they have a special agent here.

Mr. WORRALL. I will cite a case which actually occurred. Some time ago the representative of a large house established in the West went abroad, and among other places to Zurich. He told the man he had been recommended to him to buy silks. Not knowing anything about this house, it being entirely new, the man conceived the idea that this man was a representative of the United States Treasury. He told him very plainly he regretted that he had no merchandise left to sell; that he was sold out. He refused to sell the man any goods, and the moment the man left the manufacturer telephoned his competitors that an agent of the Treasury was there; and he left Zurich without buying a piece of goods.

Senator PLATT, of Connecticut. Summing up what you say, is it or not your conclusion that there are serious undervaluations of goods thus consigned?

Mr. WRIGHT. I should say yes, as a matter of fact. If we can not import goods, they must be got in in some other way. We have facilities for buying just as good as any house in the market.

Senator JONES, of Arkansas. Why can you not buy them?

Senator PLATT, of Connecticut. Why do not the appraisers stop it?

Mr. WRIGHT. There are no comparisons to make. They can not get at the market value. There is no market value on those goods. The goods are sent out in dollars and cents to keep a market value at the place of exportation. The only way in which I think they can get around that is to do what they are doing now—that is, working backward.

Senator PLATT, of Connecticut. From the wholesale price in this country?

Mr. WRIGHT. Working backward.

Senator JONES, of Arkansas. You said a while ago that you could not import those goods. I asked you why, and you did not answer the question.

Mr. WRIGHT. Take silk goods. We can not import them, because we are undersold. The only way we can get them is by buying them in dollars and cents.

Senator JONES, of Arkansas. You mean that when you buy those goods on the most favorable terms in Europe and import them yourselves they cost you more here than you can get them for in this country from an agent who will lay them down in your store?

Mr. WRIGHT. That is right.

Mr. MCKEEVER. The working-backward system is not always correct, because the goods, instead of paying 100 per cent on 100 cents, are invoiced so as to pay 100 per cent on 60 cents on the dollar.

Mr. MCCREERY. I beg pardon. The working-back system is perfect, according to Mr. Wright. On most of the goods—on textile fabrics—the working-back system will work perfectly well. You have the discount that is taken off. The goods are sold for so much; the discount is taken off; the expense of bringing the goods here is considered, and the commission paid to the commission man, and the banker's commission.

Senator JONES, of Arkansas. I should like to hear this gentleman who says it does not work well.

Senator PLATT, of Connecticut. The law is that the appraiser may take into consideration the wholesale price at which such or similar merchandise is offered for sale in the United States.

Senator JONES, of Arkansas. Mr. McKeever suggests that the process of working back will not operate satisfactorily. I should like to know the reason.

Mr. MCKEEVER. For this reason: Suppose the duty is 60 per cent, and those goods, instead of being invoiced at a hundred cents on the dollar, are invoiced at 50 cents, and the foreign manufacturer, instead of paying 60 per cent on every dollar's worth, pays only 60 per cent on 50 cents' worth.

Senator JONES, of Arkansas. That is on the hypothesis that the appraisers do not do their duty?

Mr. MCKEEVER. They do the best they can. They can not get at the value.

Mr. WORRALL. If they do not have the comparison.

Senator JONES, of Arkansas. When they figure it back, why do they not get it?

Mr. MCKEEVER. The foreign manufacturer only pays a duty of 24 cents a yard, instead of 36. He cheats the Government out of 12 cents.

Senator PLATT, of Connecticut. The law provides that if the appraiser here has trouble, he shall find what those goods are sold for at wholesale in the United States, and then he shall figure out the deductions and appraise the goods at that value, no matter what they may have been invoiced at.

Senator JONES, of Arkansas. Why does not that compel people to pay fair duties? It seems to me the statement made by Mr. McCreery is absolutely correct, and unless there is some answer to it I shall continue to think so.

Mr. WRIGHT. It is so nearly exact that I do not think it makes very much difference.

Mr. JONES, of Arkansas. This gentleman differs broadly with Mr. McCreery.

Senator PLATT, of Connecticut. The appraiser, Mr. Wakeman, happens to be here, and I will ask him to make an explanation from his standpoint as to whether or not it works justly.

Mr. WILBUR F. WAKEMAN. In the first place, this office has never taken the selling price in the United States as a guide—I think we differ as to propositions—but rather the selling price to the United States. Suppose an invoice comes in which we think is undervalued. We can ascertain through our connections that they paid to St. Gall so much money for a certain line of goods, the duty upon which is 60 per cent. We start then with the proposition of selling to the United States and not in the United States. Now, having that start, you take a unit of value, say representing one hundred, your duty of 60 per cent, and your discount, if you please, to illustrate, say 5 per cent. Then you have a cumulative unit of value. Now, you take the selling price to the United States and divide it by this cumulative unit of value and you have approximately—I say approximately—the selling price in St. Gall. That is a fair statement.

Mr. WRIGHT. That is what I was going to explain—that you get it as nearly as you can.

Mr. WAKEMAN. Take that cumulative unit of value and divide the selling price to the United States by it, and that gives you a guide.

We have never taken the selling price in the United States for that purpose.

Mr. MCKEEVER. It simply bears out my statement that if you take the selling price in the United States and work backward, it is not always the correct way.

Mr. MCCREERY. Neither Mr. Wright nor I referred to the selling price here.

Senator JONES, of Arkansas. The law does not say anything about the selling price here.

Mr. WRIGHT. The dollar-and-cents man might allow the merchant a little of the difference that he saves from the Government. I suppose that is really what you mean. For instance, suppose we find that the way the appraiser works an article costs 30 cents to the franc to land. I suppose that is what you mean.

Mr. WAKEMAN. It does not make any difference. Then we find out the dollars and cents, and we can easily get at what it ought to be.

Mr. WORRALL. If you can get the selling price in the United States—

Senator PLATT, of Connecticut. Mr. Wright said that he thought the business among importing merchants of his class of buying goods abroad and importing them themselves had fallen off 50, 60, or 70 per cent. Do the rest of you gentlemen confirm him in that statement?

Mr. GIBB. I do not confirm it so far as my lines of goods go, because mine are more fancy lines. It has not affected us to that extent. It has affected us. It has closed a great many markets to us from importing direct. We are obliged to get our goods through manufacturer's agents here.

Senator PLATT, of Connecticut. Is that true with you, Mr. McCreery?

Mr. MCCREERY. Not to so great an extent as Mr. Wright says.

Senator PLATT, of Connecticut. To a considerable extent?

Mr. MCCREERY. Yes; to a considerable extent.

Mr. WORRALL. My business is entirely different. We are importers of English goods only.

Senator JONES, of Arkansas. Did Mr. Wright make that statement as applicable to anything but silk goods?

Mr. WRIGHT. Silk and dress goods.

Mr. WORRALL. You still buy English goods the same as we do in the currency of the country there and have them come out. It is universal, I suppose, or almost so; but of course they have a distribution which is very wide. Ours is very limited.

Mr. WRIGHT. In regard to the bond question, I agree entirely with the remarks made by Mr. Worrall. Instead of making it ten days, make it five days at the most.

Senator PLATT, of Connecticut. Do you agree with Mr. Gibb that the bond is a dead letter?

Mr. WRIGHT. Yes, sir.

Senator JONES, of Arkansas. How much better would it be if we made it five days?

Mr. WORRALL. We would then have a chance of shipping our goods out and getting them back. We would then have a chance of complying with the demand of the Government, which we do not now have, because now the goods are distributed. No man can carry on his business in the city of New York with that system carried out.

Senator JONES, of Arkansas. I can not see how the five days' arrangement would improve it.

Mr. WORRALL. Shipping to the West, I can get hold of the goods in five days.

Senator JONES, of Arkansas. If they are asked for within five days, you can do it now. If asked for within seven days you could not do it then and you can not do it now. What is the difference?

Mr. WRIGHT. In one case we would be complying with the law. In the other case a man would not.

Senator PLATT, of Connecticut. What Mr. Worrall suggests is that the appraiser ought to be able within five days, having consular samples in advance, to determine whether he wants the whole invoice.

Senator JONES, of Arkansas. If he does, he can ask for them now within five days. That does no harm. If you had the law limited, say to five days, it seems to me it would only aggravate the trouble. It makes the law deader than it is now.

Mr. MCKEEVER. It is ten days after the delivery of the public stores package, and the public stores package may be a matter of a week or longer after the incoming of the steamer. Mr. Worrall suggested five days after the receipt of the free goods; that within five days from the time he gets the cases that go to the stores the appraiser should have the right to call for the balance of the goods. But the law at present is ten days after the discharge of the public stores package.

Senator JONES, of Arkansas. But he can call for the goods within five days if he chooses.

Mr. MCKEEVER. In a day, if he chooses.

Senator PLATT, of Connecticut. The importer, Mr. Worrall thinks, ought not to be required to keep the goods longer than five days.

Senator JONES, of Arkansas. They do not do it now.

Mr. WORRALL. No.

Mr. MCKEEVER. No man could do business if he did.

Mr. GIBB. As a matter of fact, the law does not affect anybody. If the appraiser's office wants to revise any particular lot of goods that may be in any particular case, they send up and ask to have the goods returned. We say, "We can not; it is impossible; the goods have all gone in a thousand different directions; but we will give you samples as near as we can." We never have had any difficulty. It is only once in years that they have ever done such a thing, and when they do they are reasonable and sensible about it. They know we have not the exact goods, but we can show them where they have been sold.

Senator PLATT, of Connecticut. If you assume that a man is dishonest, he will probably be dishonest in the samples.

Mr. WORRALL. They have the consular samples here always.

Senator PLATT, of Connecticut. If he furnishes samples which are not representative of the goods in the cases, will it be detected by the consular samples?

Mr. WORRALL. It should be.

Mr. WRIGHT. I do not know that that applies in fancy goods.

#### STATEMENT OF DANIEL MCKEEVER.

Senator PLATT, of Connecticut. Whom do you represent?

Mr. MCKEEVER. I represent Geo. Borgfeldt & Co. I merely wish to say one thing. While indorsing everything that has been said, I wish to call the attention of the committee to section 18, which provides that decisions on reappraisement shall be published. I think

the original intent was that they should be published solely for the appraisers throughout the United States and not given to the press, because they expose one's business. It is perfectly proper that the appraising officer at every port should have the information, but the public should not have it. The press should not have it.

Mr. WORRALL. So far as we are concerned, I do not suppose any house ever had less friction with the Government, but it is simply a desire to have the administrative law in proper workable shape. I have taken a great deal of interest in it for a good many years.

Mr. GIBB. It is very uncomfortable for a man who is caught stealing to have it mentioned in the newspapers.

Mr. MCKEEVER. He is not caught stealing.

Mr. WORRALL. There are lots of cases where it is manifestly unfair.

Mr. GIBB. I believe in publicity.

Mr. WRIGHT. I suggest that cases of advance be published, and that where there is no advance no report be made.

Senator JONES, of Arkansas. I have been very much interested in these matters. I should like to ask another question of some gentleman familiar with the subject. Are the conditions of which you have been speaking peculiar to the United States, or do they prevail in other countries?

Senator PLATT, of Connecticut. What conditions?

Senator JONES, of Arkansas. The method of selling goods by agents.

Mr. WORRALL. They can not prevail in England, because there is no duty there on this class of stuff.

Mr. MCCREERY. As a matter of fact, I may say I am very well acquainted with many manufacturers in Germany. They sell their goods in England precisely as here. The representative of the manufacturer goes to the dealer and presents the goods in English money.

Mr. WORRALL. Who delivers the goods?

Mr. MCCREERY. The manufacturer or his agent. They have agents there.

Mr. GIBB. They have an agent for taking the orders, but they deliver the goods direct from the manufacturer.

Mr. WORRALL. It is totally different from what it is here in that respect.

Mr. GIBB. The sole object of the system is to enable the manufacturer to invoice goods to himself at a lower price than he will sell to you or to me.

Mr. WORRALL. One of the plans I have suggested is that the United States should have a proper man in London, who, if he is the right kind of man, could find out the prices at which the goods come to the large London warehouses. I would undertake the job and guarantee to find the value. That is the best proof of value, because that country is entirely free of duty in regard to these stuffs. That plan has never been adopted.

Mr. MCCREERY. American manufacturers sell their goods in the money of the country to other countries in the same way that those goods are sold here.

#### STATEMENT OF W. J. MATHESON.

Senator PLATT, of Connecticut. What is the name of your firm?

Mr. MATHESON. Wm. J. Matheson & Co., Limited.

Senator PLATT, of Connecticut. It is a corporation?

Mr. MATHESON. Yes, sir.

Senator PLATT, of Connecticut. Proceed with your statement.

Mr. MATHESON. I suppose I must speak simply to the administrative act; that on nothing else we may try your patience.

Senator PLATT, of Connecticut. We are not inquiring about changes of law in regard to duties, but as to the administrative part of the act.

Mr. MATHESON. What I should like to call attention to is the practice which at present prevails on the part of the Board of Appraisers on reappraisement. I refer to the testimony against the importer being taken secretly, the importer having no knowledge of what the testimony is and no opportunity to confront the witnesses who are called. The appraisers, for that reason, have no opportunity to tell whether the so-called expert testimony is given by people qualified to testify as experts. It is a system which, I think, obtains nowhere outside of Russia and possibly in some of the French trials that have taken place—court-martial cases. It seems to me to be entirely un-American and capable of the greatest abuses.

The objection to giving an opportunity to the importer in such cases to hear the testimony against him is that it would embarrass the appraisers; that it would take their time, and that their witnesses would be reluctant to testify if they were subjected to examination. But the same plea might be made with respect to any trial in which a citizen's rights are jeopardized.

Senator PLATT, of Connecticut. I think the theory upon which the appraisement of goods proceeds, according to the law, both by the appraiser and the general appraisers on appeal and by the Board of Appraisers on final appeal, is that it is an appraisement and not a judicial proceeding.

Senator JONES, of Arkansas. It is the ascertainment of a fact.

Senator PLATT, of Connecticut. It is the ascertainment of a fact in regard to value, and that the same rules of testimony and procedure and trial do not apply in reference to such matters as in reference to a strict judicial proceeding. I think that is the theory of the law.

Mr. MATHESON. The only similar procedure that I call to mind at the moment is that of real estate appraisements for taxation. They, of course, are taken secretly in the same way as testimony in these cases is taken. An aggrieved party has no right to know what evidence has moved the appraisers to advance his valuation, but he has a right to have the whole matter reviewed by the courts if he feels that he is aggrieved. That stands as a safeguard, and has stood as a safeguard to prevent injustices, whereas in cases of reappraisement of property there is no such safeguard. It is quite conceivable that a number of competitors of an importer, or men who may be maliciously inclined, may conspire to deceive the appraiser, and as he is only human it is conceivable that he may be deceived. He can not be supposed to be expert along every line of the vast number of articles that come into this port for him to pass upon.

Senator JONES, of Arkansas. Is it your idea that an appraiser should not be allowed to exercise the knowledge which he personally has in this business, or that he may pick up in the street, and that he should be confined to what testimony is brought before him as you would in a trial in court?

Mr. MATHESON. No, sir. My only idea is that provided the appraiser is going to hold secret sessions, at which the aggrieved party can not be given entrance, or of which he can not have knowledge, the importer shall be allowed to appeal to the court; that the judgment of the appraiser shall not be final.

Senator PLATT, of Connecticut. The appraiser is not obliged to hold any session at all.

Mr. MATHESON. As a matter of fact, the appraiser takes testimony from various parties as to the value of the goods.

Senator PLATT, of Connecticut. I suppose that is a matter of the administration of the law. If a case goes to Mr. Tichenor about values, I suppose he can sit down and take up that case without asking anybody anything. He says, "I am an expert myself."

Mr. MATHESON. My idea would be to have it go to the circuit court, as matters of classification now do, but not before a jury. The court determines, upon the evidence which is put before the Board of Appraisers, whether their determination is or is not correct. My only idea is that the importer shall have the same right as to appraisement that he has in respect to classification. It seems to me un-American, to put it mildly, that there should be secret sessions held in which a man's property is jeopardized, to which he can have no access at all.

He does not know the nature of the accusation made against him. It is quite conceivable that a conspiracy can be formed, and I know in one or two instances they have been. But I have never had any special grievance myself, because the Board of Appraisers have been so skillful and have been able to detect any conspiracy attempted to be practiced upon them.

Senator JONES, of Arkansas. A conspiracy involving everybody connected with the appraisement?

Mr. MATHESON. No, sir. Take, for instance, special agents. Their business is to make cases against importers. If they do not make a certain number of cases they are considered not to be attending to their duties properly.

Senator JONES, of Arkansas. The importer can appeal to the Board of General Appraisers?

Mr. MATHESON. Yes, sir; but in such cases——

Senator JONES, of Arkansas. You would have to take the Board of General Appraisers into such a conspiracy.

Mr. MATHESON. I would not have it understood that way for a moment. I regret that anything I have said could indicate that, because it is far from my meaning. I do not believe the Board of General Appraisers are in a position where any such suspicion can attach to them.

Senator JONES, of Arkansas. Under the present law every man has a remedy who has been subjected to any such wrong.

Mr. MATHESON. I claim that the general appraisers can be deceived.

Senator PLATT, of Connecticut. Do you think we would be more likely to have substantial justice administered if there was an appeal to the circuit court on a question of value; if that was not finally determined by the Board of Appraisers? Do you think the law could be administered any better, either for the importer or for the Government, if such an appeal were allowed?

Mr. MATHESON. I think the shorter way would be to have the sessions open. I think that would be the shorter and more admirable way.

Senator PLATT, of Connecticut. You said you thought there ought to be an appeal on the question of value just as much as on that of classification.

Mr. MATHESON. It seems to me there should be; but I think there would be very little occasion for it if the sessions were open. The

cases would be hopeless for an appeal if the appraisers decided it. They are competent men. They are about as capable as any circuit judges.

Senator PLATT, of Connecticut. Do the Board of General Appraisers hold anything that approaches the character of a court in determining these questions?

Mr. MATHESON. In respect to classification?

Senator PLATT, of Connecticut. In respect to values.

Mr. MATHESON. In respect to valuation, I think they do. We had a little case of some few goods that came from Canada. It is the only case I can recall in fifteen or twenty years where we have had a reappraisement. The goods were invoiced at our cost. It was held that they should have been invoiced at the wholesale market price in Canada. There was no wholesale market price in Canada. The thing had been worked up, so far as we know, by a special agent who wanted to make his case. The appraiser told me that he had stacks of evidence on the case. It seemed to me to be about a foot high on a table. The amount of duty we paid in excess of what was invoiced was \$28. The attention which was given to it was entirely out of proportion.

Senator PLATT, of Connecticut. You are speaking from the standpoint of a man who does not wish to cheat the Government?

Mr. MATHESON. Yes, sir; that is my standpoint.

Senator PLATT, of Connecticut. But you realize that a law must be framed for people who do wish to cheat the Government?

Mr. MATHESON. Yes, sir; I do.

Senator PLATT, of Connecticut. Therefore the man who does not wish to cheat the Government will necessarily sometimes, perhaps, have to submit to some inconvenience that he might not have to submit to if there were not a disposition on the part of people, good, bad, and otherwise, to evade the payment of duties?

Mr. MATHESON. The only point I wish to make for your consideration is this: Of course I would not venture to argue the matter with anyone, because I am simply a layman and not a lawyer, yet it seems to me un-American that a man should be deprived of his property or any portion of it without an opportunity to hear his accusers, to hear the other side.

Senator PLATT, of Connecticut. You start with the idea that there is an accusation against you. That does not necessarily follow.

Mr. MATHESON. We ought to have an opportunity to hear the evidence and to ascertain whether the people who testify are qualified to testify as experts. Of course, appraisers must, in the course of events, take expert testimony on such things as they are not experts in. It is not conceivable that an appraiser can be expert along the line of textile fabrics and metals and everything else, and then be expert along the line of chemistry, and specially the most abstruse part, the class of dyes in which I am interested, the manufacture of which is the profoundest thing in chemistry. I do not think it is conceivable that an appraiser could be expert in that line, and he might be deceived by people who claim to be experts.

Senator PLATT, of Connecticut. You want, then, practically a trial in the usual form before the Board of Appraisers?

Mr. MATHESON. That is what I desire.

**STATEMENT OF CARL B. FRANC.**

Senator PLATT, of Connecticut. What is your business, and whom do you represent?

Mr. FRANC. I am an importer of drugs and chemicals. I am of the firm of R. W. Thair & Co. I am a member of the subcommittee of the drug-trade section of the New York Board of Trade and Transportation as importer.

We refer particularly to section 8, part of which I will read:

"That all articles of foreign manufacture, such as are usually or ordinarily marked, stamped, branded, or labeled, and all packages containing such or other imported articles, shall, respectively, be plainly marked, stamped, branded, or labeled in legible English words in a conspicuous place, so as to indicate the country of their origin and the quantity of their contents."

The requirement as to the country of origin has always been followed since the law went into existence, and no one will say one word of objection to it. The question of contents, however—

Senator PLATT, of Connecticut. Quantity?

Mr. FRANC. The quantity of contents. I myself never did pay much attention to it, and in our trade in particular it seems an unreasonable burden upon us. The drugs which are imported are crude drugs. I will speak of crude drugs first. They are sold by the pound, and in most cases the invoice weight does not play any character whatever in the transaction or sale. The goods always have to be reweighed here and the weigher's certificate has to be rendered when the goods are delivered to the buyer. Most of these are free goods. At one time the Government thought they were advanced in value, and an attempt was made to collect 10 per cent and a quarter of a cent per pound duty on them; but those cases, as I am informed, have all been settled, and they are again on the free list.

Senator PLATT, of Connecticut. The same package will contain free goods and dutiable goods?

Mr. FRANC. No. The package I refer to contains free goods, crude drugs. The question is one of weight, and I do not see how the Government can have any interest in having it marked.

Senator PLATT, of Connecticut. Give us a specific illustration by citing an article.

Mr. FRANC. Take, for instance, coriander seed. One of the members of our committee has had an experience with that article.

Senator PLATT, of Connecticut. Coriander seed in its crude state?

Mr. FRANC. Yes.

Senator PLATT, of Connecticut. Does this law apply to that article?

Mr. W. F. McCONNELL. It applies both to free and dutiable goods.

Mr. FRANC. That is the way the appraisers make it apply. They require it on every package, whether free or dutiable, because the law reads so. It is a question of the reading of the law.

I do not know whether you are aware of the fact that drugs are sold at a very small profit. Heretofore people have had the idea that in drugs there is an enormous profit.

Senator PLATT, of Connecticut. There is a good profit at retail and a small profit at wholesale.

Mr. FRANC. Exactly. A quarter of a cent is a very fair profit in the drug line; an eighth of 1 per cent is more common than a quarter. If these goods, which heretofore have been weighed in drafts of 5 or 10

bales, will have to be weighed under this law in a single package and each package marked with the weight, it can not be done without expense. No matter how unjust the law may be, people will in time accommodate themselves to its requirements.

Senator PLATT, of Connecticut. That is not new in this law.

Mr. FRANC. It never has been enforced. The district attorney lurks behind our office doors. We do not want to evade the customs laws and regulations.

Senator PLATT, of Connecticut. You think it is unnecessary. Do you know why it was thought necessary that the marks should indicate, not only the country of origin, but the quantity?

Mr. FRANC. I think I have had a chance to find out the reason, in one line of trade, totally foreign to ours. I was informed that the spool-cotton trade was seriously interfered with by fraudulent importations from the other side, where people had imported cases full of spool cotton marked and numbered as having two hundred yards each.

Senator PLATT, of Connecticut. Whereas they had only 120 or 130 yards.

Mr. FRANC. As the case might be. That has been told to me as the origin of the law. That particular industry has a perfect right to complain of the frauds practiced upon it and the public; but we do not see any reason why the drug trade should be burdened with an enormous trouble and expense.

Senator PLATT, of Connecticut. Why do not your packages correctly indicate the weight as they are received? The weight is marked on them.

Mr. FRANC. In a good many cases it is not.

Senator PLATT, of Connecticut. It might be. Is there any inconvenience about the weight being marked on the packages?

Mr. FRANC. Not in ordinary cases; but a good many cases contain sundry articles. We had an invoice the other day where the case contained three articles. It contained packages of all sorts, sizes, and weights.

Senator PLATT, of Connecticut. The contents might be described by weight or by measure.

Mr. FRANC. Take the identical importation we had. There were pills, and we had liquids, and we had quinine, all in the same case.

#### STATEMENT OF J. H. STALLMAN.

Mr. STALLMAN. If you will permit me, I will illustrate a case in point. There is an importing firm which received 350 bales of coriander seed. It is a recent case. The goods were received into their own store. They shipped part of the goods, bleached part of them, and after awhile, before the ten days were up, they received notice to deliver the 350 bales to the appraisers. They could not possibly do it. It was a physical impossibility. They appealed to Washington, to the Secretary of the Treasury, and he referred the matter back to the appraisers here. One of the firm was called in to explain. There the matter stands now, and it has not been decided.

**STATEMENT OF W. F. McCONNELL.**

Mr. McCONNELL. The committee of the drug-trade section of the New York Board of Trade and Transportation has prepared a report on this subject, which we desire to submit.

The report referred to is as follows:

NEW YORK BOARD OF TRADE AND TRANSPORTATION,  
*New York, November 17, 1898.*

Hon. ORVILLE H. PLATT,  
*Chairman Subcommittee of Finance Committee,  
United States Senate.*

SIR: At the regular monthly meeting of the drug-trade section of the New York Board of Trade and Transportation held this day the accompanying report was unanimously adopted, and the committee of importers of drugs and chemicals were instructed to personally present the same to your committee.

Very respectfully, yours,

J. H. STALLMAN, *Chairman.*

Attest:

WM. JOY SCHIEFFELIN, *Secretary.*

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NEW YORK, *November 17, 1898.*

*To the Drug-Trade Section of the New York Board of Trade and Transportation:*

Your committee of importers of drugs and chemicals respectfully direct your attention to section 8 of the tariff act, as follows:

That all articles of foreign manufacture, such as are usually or ordinarily marked, stamped, branded, or labeled, and all packages containing such or other imported articles, shall, respectively, be plainly marked, stamped, branded, or labeled in legible English words, in a conspicuous place, so as to indicate the country of their origin and the quantity of their contents, and until so marked, stamped, branded, or labeled they shall not be delivered to the importer, etc.

We especially call your attention to the language of the section that provides in addition to the marking, stamping, or branding upon all packages "the country of their origin," the requirement that "the quantity of their contents" shall also be marked upon each article. Until recently the requirements of the statute relating to the place of manufacture only have been carried out by the foreign purchasers, and the clause relating to the quantity of contents has been passed over. Recently, however, this provision has been enforced by the customs authorities on the ground that laws are made to be observed.

Your committee is informed that the clause as to quantity of contents was incorporated in the tariff act at the solicitation of American manufacturers of spool cotton for the purpose of stopping the practice of European manufacturers representing that the foreign spools contained 200 yards when they did actually contain only about 125 to 150 yards. This enabled the European manufacturer to compete and undersell the American manufacturer, but it is no justification for the imposition of hardships upon the great importing interest of the United States, comprehending as it does many and varied lines of business.

It would be particularly severe upon the drug trade with all of its ramifications if every imported package should have to be marked with the quantity of its contents, especially such articles as are imported in quantities of 500 or 1,000 packages or more. Very many of the goods thus imported are weighed in drafts of five or ten packages, and it would add materially to the cost of the goods if this almost universal custom should be replaced by one requiring that the weight of each package should be specifically marked or branded thereon by the foreign shipper, and endless annoyance and expense would ensue if that shipper or his clerk failed to comply with the regulation under consideration. Such neglect on the part of the foreigner might result in the holding up of the shipment, carting to the public stores, and the necessary marking under the supervision of customs officials, with the result that would be disastrous to the American importer, particularly in the case of cheaper grades of goods, which can not bear the charges for frequent handling.

Another unfortunate feature of the provision is that the Government is the sole arbiter as to what may constitute a proper mark, stamp, brand, or label stating the quality of contents. Many technical questions have arisen in the several branches of business regarding this matter with relation to the marking of the country of origin, and now to require an additional marking of quantity of contents enhances the possibility and probability of friction between the importer and the Government.

If the law recognized and permitted the importer to appeal from the arbitrary rulings of the Government officials in the construction of this provision it might result in the establishment by the courts of rules that would soon become universal in each line of trade; but such appeal to the courts is not recognized or permitted under this law, and therefore the importer is wholly at the mercy of the customs authorities. A more liberal phraseology of the law, defining what is meant by quantity of contents, would nullify many of the objectionable features herein referred to.

While your committee are particularly interested in the drug trade and its allied branches, a moment's reflection will show the importance of this matter in even a greater degree to other lines of business where it is a common practice, we are informed, to ship cases of mixed goods. A literal enforcement of the law in such lines means embarrassment, harassing, expensive, and disagreeable complications.

If there is any good reason for the existence of such a provision in the tariff law other than that suggested by the spool-cotton manufacturers, your committee are at a loss to comprehend it. On the contrary, we are forced to believe, after reflection and consideration, that the provision is entirely unnecessary and burdensome, of no value to the Government, because it applies to free as well as dutiable merchandise. It is apparent, therefore, that everybody, whether the goods come into this country under the free list or on the dutiable list, are apt to, through no fault of their own, be brought into conflict with customs officials. One feature of this condition must not be overlooked.

Many articles are sold in this country through brokers who have knowledge of the fact that certain goods are in the market abroad or who represent foreign houses in this country. These brokers are the parties with whom the American merchant directly deals, and it is upon the order of this broker that the goods are shipped to the buyer in the United States. It is, therefore, unreasonable and unjust that the American merchant or buyer should be handicapped

or annoyed in any way through the failure of the foreigner, whom he does not know, to comply with a technical provision of this character in the law, particularly when so many contracts involving large sums of money are made with specific time limitations.

The determination of the customs authorities to enforce the clause in the law under consideration is of such recent date that few of the American merchants have as yet begun to feel its full effect, although it has been in the law for several years past. It is a matter, however, that should be met at once, and your committee would therefore recommend that the drug-trade section bring the subject before the subcommittee of the United States Senate Finance Committee, now sitting in this city, and recommend through them, or in such other way as may be desirable, an amendment to the law either striking out the words "or other imported articles," or by providing that the quantity of contents shall be more clearly defined in the law.

Respectfully submitted.

THE COMMITTEE OF IMPORTERS

OF DRUGS AND CHEMICALS, DRUG-TRADE SECTION.

A true copy.

Attest:

J. H. STALLMAN, *Chairman*.

### STATEMENT OF W. LOAVIA & CO.

NEW YORK, *November 18, 1898.*

The SUBCOMMITTEE OF THE SENATE FINANCE COMMITTEE, *City.*

GENTLEMEN: In response to your note of the 16th instant, inviting us to attend a meeting re, improvement of the customs administrative act, we are sorry to say that, on account of business pressure, we are unable to attend; but take this opportunity to call your attention to the injustice to which we are subjected on account of the provision of the present law which prohibits our adding to make market value on invoices of consigned goods. To illustrate:

On some recent importation of hides, on which the valuation was made in accordance with the suggestion of the board of appraisers after due deliberation on the subject about a year ago, and on arrival of these hides so valued, the valuation was raised some 50 per cent without warning, which made us liable to a heavy penalty and prevented our entering other hides which arrived subsequently. Owing to the before-mentioned provision, we were unable to add to make market value, and therefore these other consignments, without our being able to prevent it, go as unclaimed hides into general order stores, thereby involving additional expenses.

There are, no doubt, other points which would be worth while discussing, and we hope that some other importers in our case will bring them before your attention.

We remain, gentlemen, yours, truly,

W. LOAVZA & Co.  
P. L. WHITAKER.

**STATEMENT OF KUNHARDT & CO.**

NEW YORK, *November 16, 1898.*

SENATE INVESTIGATING COMMITTEE, *New York.*

GENTLEMEN: We take the liberty to place before your committee the following facts:

Our business is that of export commission merchants with West Indian and South American countries. In exchange for products we send from here we receive products of those countries; viz, coffee, skins, hides, etc. Since the enactment of the Dingley tariff bill the regular course of our business transactions with those countries has been greatly disturbed through the workings of the duty imposed on hides and the administrative laws in connection therewith.

Coffee, skins, and free goods are not affected, but hides, which are a large means of exchange, are subjected to many complications and difficulties and imposition of penalties, large and small, which it is utterly impossible for us to avoid. These difficulties have become so pronounced that they threaten not only to divert from the United States that article of exchange "hides," but disadvantageously affect also the export and import business in other lines. The manner in which the administrative act works is to treat reputable concerns which have spent a lifetime in upbuilding our export trade like thieves, and give them no recourse in cases where differences arise, even when the facts show perfectly plain there is no intention to avoid the full payment of duties or circumvent the law in any other way.

Our first experience with this administrative act was in making, at the demand of the collector of customs at this port, certain deductions of charges which duly appear in our consular invoice, and later on the appraisers returned these same charges as dutiable. This variance between the collector of customs and the appraisers' requirements imposed penalties from 1 to 1½ per cent, which we were compelled to pay, notwithstanding our appeal to Washington.

It is impossible for our clients in South America to understand such charges, and consequently they are irritated to such an extent as to, in some cases, withdraw their entire business from us. In our dealings with Colombia, for instance, where we do an extensive business and from which country hides are exported to the United States in large numbers, it is likely that this important business will be withdrawn from us, due to the fact that we can not give our clients instructions definite enough to invoice their hides properly. In fact, in Colombia hides are bartered and seldom if ever are offered for sale in shipping markets. Consequently they can not be invoiced at a market price, and the exchange fluctuating there from 30 to 40 per cent within a week makes such variations of cost that the appraisers have latterly advanced invoices as much as 40 to 50 per cent, and seldom invoices come through without a small penalty, which falls on our shippers.

(1) For your information we beg to state that neither our shippers nor we have any interest whatever in reducing the amount of duties paid on our importations of hides. Our hides brought here are sold in bond at the net price, and whatever sum is paid for duties is refunded to us by the buyers; hence we have no interest in the amount paid.

(2) From what we learn the Government's direct interest in the

duty imposed on hides is, in its final outcome, of small moment, as most all the imported hides are reexported to Europe, in the shape of leather after manufacturing, and the duties are then refunded to the manufacturer as "drawback," less 1 per cent. We are of the opinion that the Treasury statistics will show that the volume of exported leather made from imported hides is so large that the net revenue to the Government is a very small amount.

(3) It seems to us that the Government's purposes would be as fully and perhaps better subserved by the imposition of a specific duty on hides than by the present method. Formerly, when hides were dutiable, they paid a specific duty, and the trade—export and import—was not interfered with as under the present duty. We strongly advocate a change of the tariff from the ad valorem to a specific duty.

(4) We think the present administrative law is too rigid in its requirements in that it does not permit importers to advance to market values and also in that it imposes penalties for any slight advance that may be imposed by the appraisers.

We think the purposes of the Government would be equally well attained and honest merchants would not suffer as at present if this law were changed so as to permit an addition being made upon entry to the market value and a certain small percentage of leeway be allowed free from penalty as has been in the case of other previous laws of this nature.

We respectfully submit this expression of our experience and views to your consideration.

KUNHARDT & Co.

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NEW YORK, November 3, 1897.

Hon. LYMAN J. GAGE,

*Secretary of the Treasury, Washington, D. C.*

DEAR SIR: On the following entries of 399 hides ex *Venezuela*, from Puerto Cabello, September 9, entry No. 146064, and 170 hides ex *Philadelphia*, from Puerto Cabello, September 18, entry No. 149990, a penalty of 1 per cent has been exacted by the customs authorities at this port. We desire to be relieved from the penalty incurred, as it was incurred through a manifest clerical error authorized and permitted by the customs authorities here and without any intention on our part to evade the payment of the duties or defraud the Government. In entering these lots of hides we were permitted by the customs authorities to deduct the charge specified on the invoice as municipal duty. We believed at the time of entry that this duty was levied in *Venezuela* only on exported merchandise, and acted accordingly. The deduction of this charge was disallowed by the appraisers here, and on appeal to the Board of General Appraisers such disallowance was sustained by them; hence the penalty.

In the absence of any previous decision of this nature by the appraisers, we were not at fault in deducting this charge, and the approval of the collector's department of such deduction when the entry was made, it seems to us, should be ample evidence of our good faith in the transaction and sufficient to permit the exercise of your authority, under section 7, tariff of 1897, to remit said penalty.

Awaiting the favor of a reply, we are, dear sir, very respectfully,  
yours,

KUNHARDT & Co.

NEW YORK, *October 6, 1897.*

Hon. LYMAN J. GAGE,

*Secretary of the Treasury, Washington, D. C.*

DEAR SIR: On an entry of 223 hides ex *Venezuela* from Puerto Cabello, September 9, entry No. 146064, a penalty of 3 per cent has been exacted by the customs authorities here. We desire to be relieved from the penalty, inasmuch as it was incurred through a manifest clerical error authorized and permitted by the customs authorities here and without any intention on our part to evade the payment of the duties or defraud the Government. In entering this lot of hides we were permitted by the custom-house to deduct certain charges which duly appeared on the consular invoice. Among them was a charge for weighing and also one for poisoning the hides. The deduction of these two charges was disapproved by the appraisers, and on appeal to the Board of Appraisers such disapproval was confirmed by them; hence the penalty. In the absence of any previous decision of this nature by the appraisers, we were not at fault in deducting these charges, and the approval of the collector's department of such deduction when the entry was made, it seems to us, should be ample evidence of our good faith in the transaction and sufficient to permit the exercise of your authority, under section 7, tax 1897, to remit said penalty.

Awaiting the favor of a reply, we are, dear sir, very respectfully,  
yours,

KUNHARDT &amp; Co.

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**STATEMENT OF W. WICKHAM SMITH.**NEW YORK, *November 17, 1898.*

Hon. ORVILLE H. PLATT,

*Acting Chairman Subcommittee of  
Finance Committee of United States Senate.*

SIR: Announcements have appeared from time to time in the newspaper press that a subcommittee, of which you are a member, and I believe the acting chairman, is now in session in this city for the purpose of inquiring into the workings of the customs administrative act of June 10, 1890, and of ascertaining and reporting what, if any, changes are necessary or desirable in the provisions of that act, in order to promote its efficiency. It has also been announced that an expression of views would not only be obtained from customs officials charged with the enforcement and administration of the law, but that suggestions from merchants and other interested parties would be received by your committee and given such consideration as they might be entitled to.

Assuming the general understanding upon this subject to be correct, I beg the liberty of submitting to you herewith certain suggestions as to the workings of the customs administrative law which I trust may commend themselves to the judgment of your committee. I am specifically retained and instructed to do this by a large number of importers of Swiss embroideries, but I deem it proper to state in this connection that my firm (Curie & Smith) are attorneys for a very large number of importers of all classes of commodities and are in constant touch with the importing community, and I feel justified in

saying that the suggestions which I am about to make would unquestionably be indorsed by a very large number of importers besides those under whose explicit retainer this communication is written. I do not, of course, mean to suggest that there may not be other importers who might or would dissent from some or all of the propositions to be hereafter laid down.

The first and most important matter which I desire to bring to your attention is the change which was made by section 32 of the tariff act of July 24, 1897, commonly known as the Dingley Act, in the provisions of section 11 of the customs administrative act of June 10, 1890, relating to the appraisement of merchandise. I refer particularly to the following provision added at the end of section 11:

It shall be lawful for appraising officers, in determining the dutiable value of such merchandise, to take into consideration the wholesale price at which such or similar merchandise is sold or offered for sale in the United States, due allowance being made for estimated duties thereon, the cost of transportation, insurance and other necessary expenses from the place of shipment to the United States, and a reasonable commission, if any has been paid, not exceeding six per centum.

It was generally understood at the time this provision was inserted that the object sought to be accomplished was to legalize a method for the appraisement of goods which had no ascertainable market value in the country of exportation. This is understood to be the case with certain sugars imported from islands in the Antilles, and with certain hides imported from South American countries. In many instances these articles are never bought and sold in the country of exportation, and no price for them in the currency of such country is or can be quoted. It is of course therefore utterly impossible to ascertain their foreign market price. By reference to the customary and prevailing quotations for them in this market, and by making proper allowances for freight, duties, and other expenses, and for a reasonable profit, a dutiable value for them may be more or less arbitrarily fixed. This may not be a very satisfactory method of determining dutiable value, but is the best obtainable, and where the goods are subject to an ad valorem duty a value must be fixed in some way.

If the appraising officers at this port had confined their application of this provision to the cases above outlined, which it was intended to reach, no particular harm could have been done to anybody; but customs officials have not so confined it. On the contrary, some of them have chosen to put upon it an interpretation which it was never intended to bear, and which, it is most respectfully suggested, is foreign and obnoxious to anything that Congress can be reasonably supposed to have contemplated, and which is in the highest degree unreasonable, unjust, and inconsistent with the genius of American institutions. It has been claimed by some Federal officials that this new legislation justifies an inquiry into the particular price at which a particular importation (or some part of it) has been contracted to be sold to a particular buyer in the United States, for the purpose of determining its dutiable value. Acting in accordance with this erroneous interpretation of the law, the appraiser of the port of New York has cited various importers to appear before him and testify under oath to whom the particular goods before him for appraisement had been sold or contracted to be sold, and at what price.

To compel obedience to such citations and inquiries he has threatened importers, if they refuse to furnish the information requested, with a fine of \$100 and a denial of a reappraisement, under section 17

of the customs administrative act. In many instances importers, acting under the advice of counsel, have refused to submit to such impertinent inquisitions into their private business. In many instances, however, importers who were apprehensive of delay in the delivery of their goods, and consequent financial loss, have submitted to these unreasonable demands and have furnished the names of their American customers and selling prices. The result has been what might have been anticipated, and fully demonstrates the absurdity of the interpretation put upon this legislation. Importers who have contracted to sell the same identical goods to several different parties at several different prices have found the goods appraised at as many different prices by reason of the information furnished.

Although the customs laws of the United States aim at absolute uniformity in classification and valuation, and although section 19 of the customs administrative act says that the duties shall be assessed upon the wholesale price at which commodities are freely offered for sale in the principal markets of exportation, importers have found the same goods, shipped at the same time from the same market, appraised at different prices, because by inquisitorial proceedings the appraiser has discovered that they were sold to American buyers at different prices. If this interpretation of the law had no other indorsement than that of appraising officers, it might be unnecessary to dignify it by criticism or discussion, but it has been apparently indorsed by an opinion of the Solicitor of the Treasury, dated June 5, 1898, and all efforts to induce the Secretary of the Treasury to enjoin the appraiser from carrying on these inquisitions, or to procure an authoritative opinion of the law from the Attorney-General, have proven abortive.

The importers and their counsel most strenuously maintain that the legislation in question admits of no such interpretation as some of the customs officials have put upon it, and are eagerly awaiting an opportunity for a judicial determination of the question in dispute. But the law is proverbially slow, and thus far the importers have failed to induce the Treasury Department to bring the question into court. They therefore appeal to Congress, through this committee, to remove all ground for controversy in the future by absolutely expunging this provision from the law; or if it be deemed wise or desirable to retain it for the legitimate purpose for which it was intended, to so qualify and restrict it, by amendment or definition, as to explicitly negative the right of customs officials to institute or carry on the impertinent, inquisitorial, and un-American proceedings which have been resorted to during the past year.

It has been stoutly maintained by these customs officers that while they resorted to these impertinent inquiries for the purpose of obtaining information, they did not in fact appraise the goods at the American selling price, less freight and duties, and they have so officially informed the Secretary of the Treasury; and the Secretary of the Treasury, through the State Department, has so informed the minister of Switzerland at Washington in response to vigorous protest interposed by him under instructions from his Government. But the fact remains that if you take the whole invoice, involving a number of different items, and the importer furnishes the appraiser with the selling price in American currency, which widely differs in many instances as to the same goods, and when each of these items has been appraised and a comparison of the appraised values with the selling prices shows that in each instance the appraised price is exactly so

many per cent less than the selling prices, and when the appraised prices for the same goods which have been sold to different parties at different prices differ among themselves at exactly the same percentage as the selling prices differ, the conclusion is irresistible that if the goods have not been appraised according to the American selling price then the chapter of coincidences is the most remarkable that the history of revenue administration has ever shown.

A new provision of law, intended to be limited in its application for wholly proper and beneficent purposes, has been turned by customs officials into one of the most offensive organs of oppression which the mercantile community has ever known. It seems scarcely necessary to enlarge upon the gross abuses to which these illegal proceedings may lead. The whole private business of importers is made the subject of official espionage. Instead of inquiries as to value starting, as the law intended, when the goods go on the ship, they are begun at the point where the goods come off the ship or go to the retailer in the United States. The profits which importers make in their American business, which concern nobody but themselves, or possibly their customers, are made the subject of prying inquiry and comment and disclosure by Government officials, and instead of uniformity of appraisement we have a diversity of appraisement, measured only by the variance in prices which American merchants, like all others, graduate according to the conditions of the American market and the volume of their annual business with particular buyers. I have no doubt that the courts of the United States will ultimately set the seal of their condemnation upon this Paul Pry interpretation of the law, but Congress ought not to wait for that before calling a halt upon the conduct now complained of.

Second. The next subject to which I respectfully invite your attention is the unreasonable and unfair discrimination made by section 7 of the customs administrative act between purchasers and consignees as to their right to make additions on entry. There can be no reasonable justification for this discrimination. If the object of the law is to compel every importer to enter his goods at what he knows or believes to be their foreign market value there can be neither justice nor propriety in forbidding consignees to do what the law aims to accomplish, because their consignors have not happened to invoice the goods at what the importers believe to be the foreign market value. In effect the law as it now stands says to importers, "We want your goods entered at market value, and if they are purchased we will afford every opportunity to the importer to declare in his entry what he has ascertained or believes the foreign market value to be; but if the importer is a consignee we will refuse to let him make any addition to make market value. Even though he knows or believes the market value to be in excess of the invoice, we will compel him to enter his goods at the invoice price, and will at the same time require him to swear (or declare) that 'the invoice now produced by me exhibits the actual market value or wholesale price at the time of exportation,' although he knows or believes that that declaration is false."

Under recent instructions issued by the Treasury Department the consignee has not even the opportunity to let his goods go in general order stores, and procure a corrected invoice which he can truthfully swear or declare exhibits the actual market value, because consuls have been instructed to refuse authentication of such invoices, and entries can not be made upon corrected invoices. In other words, the

law as it now stands not only invites but practically compels importers of consigned goods to commit perjury.

It has been sought to defend this discrimination by the ingenious suggestion that sellers of goods may not be supposed to know their market value, but that consignors of goods must necessarily know their market value, because they make them and know their cost of production, and know the price at which they have sold or would sell them. But this defense will not bear a moment's investigation.

Suppose a consignor does know what it has cost him to make goods, and suppose even that he knows the price at which he has sold or would sell them (although this is in many cases an utterly unwarranted assumption, because he does not sell them at all in the country of production, and his opinion as to the price he would sell them at must be purely speculative); but, as I say, suppose even for the sake of argument that he knows all these things, how does he know how far other people's expenses and allowances for profit correspond with his own; and if he does not know it, how can his consignee know it; and when the law authorizes an appraiser, as section 11 of the customs administrative act as amended by section 32 of the Dingley Act does authorize him, to add not less than 8 per cent nor more than 50 per cent to the total cost of production, how can either the consignor or consignee know what percentage between 8 and 50 the appraiser will see fit to add? If by the time the goods arrive here the consignee has found that the appraiser has seen fit, on corresponding goods of some other importer, to establish a certain valuation which is higher than his invoice, upon what theory of justice or propriety should he be compelled to enter his goods at a lower valuation and have a penalty imposed upon him under section 7, because the appraised value exceeds that of the invoice?

The injustice of this discrimination has been manifest from the day when it was first put into the law, eight years ago. But its injustice has been emphasized, and its cruelty and brutality multiplied tenfold by the amendment of section 7 made by section 32 of the Dingley Act, abolishing the margin for differences of opinion between appraisers and importers, and imposing an additional duty of 1 per cent for every 1 per cent by which the appraised value exceeded the entered value. Under these provisions of law penalties (for they are such in fact, although section 32 of the Dingley Act says that they shall not be so regarded) are being daily imposed upon honest and well-intentioned importers, who have acted with the most explicit good faith, and who are punished, not because they have intentionally done any wrong, but because the law has forbidden them to do right.

The laws of the United States relating to customs administration seem to be all based upon the theory that a foreign market value is a fixed ascertainable mathematical fact, and that everybody either knows it or ought to know it, and that if he has not stated it correctly he has been guilty of wrongdoing for which he should be punished. On the other hand, nobody knows better than appraising officers that market value is not an easily ascertainable mathematical fact, but is, on the contrary, in many instances something so intangible as to be not ascertainable at all upon any fixed principles, but to be something like ideal perfection, not to be attained, but to be approximated as nearly as possible.

It is a fact of daily occurrence that an appraiser fixes one value, a general appraiser a different value, the Board of General Appraisers on appeal still a third and different value for the same article on the same invoice. The last valuation may be less or more than either of

the other two, but the laws of the United States in effect say to the importer: "Although these experts may differ among themselves, if you have happened to fix a price which differs from the last appraisalment, you must not only pay additional duties and penalties, but, if you are a consignee, and have goods on the ocean of the precise character of those appraised at the time the last appraisalment takes place, and which are invoiced at less than the value ultimately fixed, you can not add anything to them on entry to correspond with the decision of the Board of General Appraisers, but you must enter them at the invoice price, swear that you believe it to be the true market value, and then pay a penalty for doing it." Is it any wonder that importers are occasionally found who will seek to take advantage of a Government which imposes upon them such laws as this?

Third. The next point to which I respectfully invite the attention of your committee is the change made by section 32 of the Dingley Act in section 7 of the customs administrative act, whereby the margin of 10 per cent for differences of opinion between appraisers and importers as to market value has been wiped out, and goods are subjected to an additional duty of 1 per cent for every 1 per cent by which the appraised value exceeds the entered value.

This topic has been incidentally referred to in the discussion of the proposition involved under the last point, but it will fully justify more extended consideration. I think that there are not only very few importers, but very few customs officers who would not condemn this change.

The almost unanimous testimony of experts is that market value can not be appraised within 10 or at least 5 per cent. It must be a fact well known to your committee that when an appraiser finds the same goods invoiced by different parties at different prices, he takes the highest invoice price as the market value, and if others are below it raises them to correspond with it. In most instances it would be freely conceded by appraising officers that the lower prices were honest and bona fide. Yet importers of the highest character, free from any charge or suspicion of wrongdoing, are compelled to pay additional duties because the officials' estimate of value differs from their own by but 1 or 2 per cent. The hardship of this ruling can not be exaggerated. I may mention as a glaring instance of its injustice that appraising officers now go so far as to cause this penalty to be inflicted upon importers whose goods are subject to specific duties, because a paragraph which provides for them contains a proviso that no such goods shall pay less than a certain percentage ad valorem.

I have now a case awaiting argument in the Supreme Court of the United States in which an additional or penal duty was exacted of the importers on goods upon which the duties were 50 and 60 cents a pound, because the appraiser had added 9 centimes per meter, amounting to about 4 per cent. As I have already said, a foreign-market value is not a mathematical fact, but a matter about which experts differ every day. I have recently had a case under reappraisalment where the valuation of the Board of Appraisers differed from that of Appraiser Wakeman by 550 per cent. This, of course, is an exceptional case. But instances where the General Appraisers differ in their valuation from local appraisers by from 10 to 30 per cent are of almost daily occurrence. If such differences between official experts raise no suspicion of bad faith, why should a difference of 1 per cent between an importer and an appraiser cause the former to be subjected to a penalty aimed at the prevention of fraudulent undervaluation?

It may well be that punishment for the prevention of undervalua-

tion should not require in every instance affirmative proof of fraud on the part of the Government, and that a penalty line is necessary to secure the invoicing of goods at proper values, but surely the line which was originally inserted in the customs administrative act when it was prepared under the leadership of the distinguished statesman who is now President of the United States was sufficient for the adequate protection of the revenues. For every instance in which the revenues suffered under the laws thus passed there are to-day a hundred instances where honest and well-intentioned merchants are subjected to unjust, unreasonable, and cruel punishments because the appraiser's idea of values is 3 or 4 per cent higher than their own.

Indeed, I think the suggestion might very well be considered by your committee whether the provisions imposing penalties for undervaluation and those forbidding the appraisement of goods at less than the invoice price or the assessment of duty on less than the invoice price might not both with advantage be expunged from the customs laws. These latter provisions had their origin at a time when the price paid was the standard of dutiable value. Now that the Government is provided with experts who are required by law to appraise the foreign value of goods, "any invoice to the contrary notwithstanding," it is a question whether they should any longer be retained.

If importers have made any attempt to defraud the revenues and impose on officials, their goods ought to be confiscated or the penalties of the criminal law invoked against them, one or both. If, on the other hand, they have been honest in all their transactions, why should they be punished because the appraiser thinks their goods worth more than they do; and, on the other hand, if they have paid higher prices for goods than others are able to buy them at, why should there be added to the disadvantages they already labor under that of having to pay a higher tax to the United States than that paid by other parties on corresponding goods? Why would not that cheerful acquiescence in and honest conformity to the law, which it should be the aim of all legislation to accomplish, be promoted if all importers, whether their goods were purchased or consigned, had to pay duties on the same valuation, if rigorous punishment were inflicted upon all of those who have been found guilty of wrongdoing and if all harsh and cruel punishment on those who have acted honestly and in good faith were abolished?

The foregoing suggestions are of general application, but I trust you will pardon me for adding a few words specially applicable to the class of merchandise in which the importers for whom I particularly appear are interested, viz, embroideries. These goods are made dutiable at 60 per cent ad valorem by paragraph 339 of the present tariff. For many years the practice in invoicing and appraising these goods has been such as to bring them as close to a specific duty as an ad valorem rate can well be brought. The goods have been invoiced with a particular statement of the value of the various materials and processes which make the finished product. There have been separately stated the price for the cloth, for the stitching, bleaching, finishing, and putting up and boxing. Each of these various processes, being given at the prevailing market price for that part of the labor, includes within itself a profit for the various parties by whom this labor is performed. To all this has been added, under decisions of the appraising officers, sanctioned and approved by the Treasury Department, and promulgated for the guidance of consuls, additions of 5 per cent for general expenses and 8 or 20 per cent for profit, and

on the gross amount so stated the importers have paid a duty of 60 per cent.

The substantially unanimous testimony of the embroidery trade in all its branches is to the effect that this is the only simple and practicable method by which a basis of valuation for these goods can be arrived at. The system has been approved by appraising officers and by experts for a period of nearly twenty years. But the present appraiser and his assistants have seen fit to repudiate this method of valuation and to substitute for it all sorts of capricious methods, the chief of which has consisted in appraising goods according to the price at which they were sold to jobbers or retailers in the United States. This revolutionary proceeding was instituted almost a year ago, and from that time to the present chaos has prevailed in the embroidery trade. Invoices nearly a year old are still under reappraisement; goods have been detained until the demand for them has disappeared; importers have been held by their customers for breach of contract in failing to deliver goods; and no merchant in the embroidery trade to-day, however honest or well intentioned, can know on what basis he could invoice his goods to-morrow so as to insure their prompt appraisement and delivery.

The importers whom I represent believe that they are paying more than the United States has a right to demand, in view of what I have already stated; but even if they were willing to pay more, and a good deal more, they could not find out what price would be accepted as market value for their goods so as to protect them from the imposition of penalties. The conditions existing in the treatment of this branch of the importing trade by the appraiser's department at this port are intolerable, and all efforts heretofore to secure any redress or relief have proved unavailing. Meantime the appraiser has from time to time caused to be published in the newspapers attacks upon these merchants as having been guilty of gross fraud and undervaluation, although they have shown, and the fact is not denied, that they have invoiced their goods according to a standard deliberately adopted and applied for many years by officers of the Government. My clients have nothing to conceal or apologize for in this matter, and they would be only too glad to have your subcommittee, or some committee to be appointed for the purpose, thoroughly investigate the conditions of this business and the conduct with regard to it of the appraising officers at this port during the past year.

In conclusion, I beg to say that the merchants whom I represent, who carry on a very important branch of commerce and who pay enormous amounts of money as duties into the Treasury every year, have other grievances connected with the administration of the customs laws—delays in appraisement, inconsistencies in appraisement, unreasonable detention of goods, and other hardships—which they would be glad to call to the attention of your committee if you would afford them an opportunity for an oral hearing. They do not ask for a protracted hearing, but they would be glad to have an opportunity to call your attention to the state of affairs now existing with reference to the appraisement of embroideries at this port, and if their request meets with your approval, I respectfully ask on their behalf that you notify me of the time and place when you will be willing to give them a little of your time.

Very respectfully,

W. WICKHAM SMITH.

At 3 o'clock p. m. the subcommittee adjourned until Tuesday, November 22, 1898, at 11 o'clock a. m.

OFFICE OF THE APPRAISER FOR THE  
DISTRICT OF NEW YORK,  
*New York City, November 22, 1898.*

The subcommittee met at 11 o'clock a. m.

Present: Senators Platt, of Connecticut, and Jones, of Arkansas; also, Wilbur F. Wakeman, appraiser; George W. Wanmaker, J. Hart Brewer, Warner Sherwood, E. A. Hartshorn, L. B. Carhart, J. P. Skillman, Alex Hamill, Michael Nathan, H. T. Andrews, T. C. Wordin, assistant appraisers, and George T. Aldrich, counsel to appraiser.

**STATEMENT OF WILBUR F. WAKEMAN.**

Senator PLATT, of Connecticut. You are the appraiser of the port of New York?

Mr. WAKEMAN. Of the district of New York.

Senator PLATT, of Connecticut. How long have you been such?

Mr. WAKEMAN. Since July 4, 1897.

Senator PLATT, of Connecticut. In your office you have become familiar with the operations of the customs administrative act?

Mr. WAKEMAN. I have tried to.

Senator PLATT, of Connecticut. The subcommittee is here to obtain suggestions looking, if necessary, to the improvement of the act, to make it more efficient, as well as to facilitate the transaction of business under it. If any suggestion occurs to you whereby you think the act may be improved, we should like to have you state it.

Mr. WAKEMAN. In section 13 of the administrative act, referring to the subject of appeals from one general appraiser—

Senator JONES, of Arkansas. The act of 1890?

Mr. WAKEMAN. Yes. I have the honor to suggest that where the question of appeal is now practically left to the collector the section be so amended as to give the right of appeal also to the Secretary of the Treasury.

Senator PLATT, of Connecticut. Is it your construction of that section that the Secretary of the Treasury has not the right of appeal or can not direct an appeal? Is not the collector subject to him so that the Secretary can direct him in that particular?

Mr. WAKEMAN. Certainly; but it would remove all doubt and friction in connection with appeals.

Senator PLATT, of Connecticut. The importer now has the right to appeal arbitrarily.

Mr. WAKEMAN. Yes, sir.

Senator PLATT, of Connecticut. The collector exercises his judgment on receiving the report of the appraiser, and he decides whether or not he will take an appeal.

Mr. WAKEMAN. Yes, sir.

Senator PLATT, of Connecticut. The collector passes upon the matter and has the arbitrary power to say he will not appeal, subject, of course, to the direction of the Secretary. If you think you are surely right and that the collector is surely wrong, do you lay the matter before the Secretary of the Treasury and say that you think he ought to direct an appeal to be taken or suggest that an appeal be taken?

Mr. WAKEMAN. I have made such suggestions.

Senator PLATT, of Connecticut. In that way does friction occur sometimes between the collector's office and the appraiser's office?

Mr. WAKEMAN. There has been no friction in that respect, so far as the two offices are concerned.

Senator PLATT, of Connecticut. Is it liable to arise?

Mr. WAKEMAN. Yes.

Senator JONES, of Arkansas. Friction between whom?

Senator PLATT, of Connecticut. Between the decision of the appraiser and the views of the collector in the matter. Is it frequent that the collector, examining your work, thinks it is wrong and that no appeal should be taken?

Mr. WAKEMAN. I have in mind about one hundred and sixteen cases, what were known as the embroidery cases from St. Gall, where the collector deemed the appraisement by a general appraiser as correct and declined to take an appeal. There were several hundred thousand francs involved. The appraisement by this office averaged from 35 to 45 per cent, I should think, increase on the invoice. The general appraiser reduced it to a nominal advance of about 4 per cent, and the collector declined to appeal the cases.

Senator PLATT, of Connecticut. From the general appraiser to the board of general appraisers?

Mr. WAKEMAN. Yes.

Senator PLATT, of Connecticut. Are those all the suggestions of amendment you wish to make?

Mr. WAKEMAN. No, sir. I have the honor to suggest that a protest fee of, say, \$5 be embodied in the administrative act.

Senator PLATT, of Connecticut. What do you mean by "a protest fee?"

Mr. WAKEMAN. A fee, or costs, if you please, the same as in court where you have to pay certain costs. So, in making a protest it seems to me the importer should pay a fee or costs, the same to be refunded in case he wins before the board of general appraisers.

Senator PLATT, of Connecticut. Do you think \$5 would deter him from taking an appeal?

Mr. WAKEMAN. It would probably reduce the work of this office 25 per cent on the answers to protests, as there are a class of customs lawyers who get hold of cases and protest anything and everything until they get a great number of cases and then perhaps some one of them may prevail. I remember a case in the seventh division, which I will have explained by Dr. Hamill, where they made thirty protests and admitted that they expected to win only on one of them.

Senator PLATT, of Connecticut. On different goods?

Mr. WAKEMAN. On different goods embraced in the same invoice. We had to answer as to every class of merchandise covered.

Senator PLATT, of Connecticut. You think, then, that protests are not always made in good faith?

Mr. WAKEMAN. Certainly they are not.

Senator JONES, of Arkansas. What is the object?

Mr. WAKEMAN. The object is to gather together a large number of cases and finally get one with which they may succeed.

Senator PLATT, of Connecticut. A fishing process?

Mr. WAKEMAN. A fishing process. There is no expense at all in protesting. All the importer has to do is simply to file a protest. Limited costs, whatever you would place the sum at, would have a very important and beneficial effect in reducing the work of this office and likewise that of every department of the customs service that comes in contact with this work.

Mr. E. A. HARTSHORN. Many of these protests are made at the solicitation of attorneys. Small amounts are involved, and except at the instigation of the attorneys the importers would not make the protest.

Senator PLATT, of Connecticut. Are those protests numerous?

Mr. WAKEMAN. I should think they run 50 a day.

Mr. HARTSHORN. I have a clerk doing nothing except answering protests from my division. I should say half his time, probably two-thirds of his time, is occupied in that way.

Senator PLATT, of Connecticut. What is the final result?

Mr. HARTSHORN. We never hear that.

Senator PLATT, of Connecticut. I understood the appraiser to say that ordinarily very few of them amount to anything; that occasionally one holds?

Mr. WAKEMAN. We have anywhere from 50 to 100 a day. When we receive a protest we have to prepare an answer for it, giving the record of the case, for the information of the collector, who transmits those papers, with our answer, to the board of general appraisers. All of those cases go to the board. Of course, unless it is a case of some importance, we may hear little of it; but when it is a case which is of some importance, then we give every cooperation for the evidence in behalf of the Government before the board of general appraisers.

Senator PLATT, of Connecticut. Are those protests all brought up and decided by the Board of General Appraisers?

Mr. WAKEMAN. They are supposed to be.

Senator PLATT, of Connecticut. Are they in fact pursued or abandoned?

Mr. WAKEMAN. The great majority of them are pursued.

Mr. HARTSHORN. Every case involves the looking up of the law under the decisions of the general board. So you can understand that it takes a great deal of time and costs the Government a good deal of money.

Senator PLATT, of Connecticut. Are those protests founded upon what is claimed to be an erroneous valuation or an erroneous classification?

Mr. WAKEMAN. Both. Referring to the large number of protests, take the celebrated hat-trimming cases. I understand there are about 10,000 altogether, and of course each one or those was based upon a protest. That is only in the hat-trimming line. A fee, or costs, as you may put it, would have a very wholesome effect upon the protests that are constantly going through the office. We have no hesitation about answering any legitimate protests, but when a man comes here and protests 30 articles and admits that he is after only 1, and requires 30 answers to protests on our part, it is a large amount of labor for nothing.

Senator JONES, of Arkansas. Mr. Hartshorn said one clerk is engaged in answering these protests in his division, as I understood him.

Mr. HARTSHORN. Nearly all the time.

Senator JONES, of Arkansas. Is there any other expense in the division in connection with the protests except the employment of the one clerk?

Mr. HARTSHORN. Not in connection with the division, except so far as perhaps my time and the chief clerk's may be employed to assist the law clerk, as we call him; but it involves the calling of a stenog-

rapher from this floor to take the dictation when the authorities—the general appraisers' decisions—have been looked up and cited and numbered. I frequently see 40 or 50 accumulated cases on my clerk's desk ahead of him. I have to take him away occasionally to do other work.

Senator JONES, of Arkansas. How many cases on an average will come up in your division in a day?

Mr. HARTSHORN. I think we average 12 or 15; I think one examiner will average 8 or 10 a day. I may be putting it a little strong.

Senator JONES, of Arkansas. Of course it is an estimate.

Mr. HARTSHORN. Quite a share of my time is spent in reading and signing those letters.

Senator PLATT, of Connecticut. Then I understand that you have an average in the appraiser's office of 100 protests a day, and that as to each protest all decisions which bear upon it have to be looked up and the appraiser or the assistant appraiser, and finally the appraiser, has to submit a brief to sustain the act of the appraiser in each particular case?

Mr. HARTSHORN. That is true.

Senator PLATT, of Connecticut. You think so many of the protests are trivial that if there were a fee they would be far less in number?

Mr. WAKEMAN. I believe they could be reduced 25 per cent.

Senator PLATT, of Connecticut. The fee to be returned in case the Government does not make its case?

Mr. WAKEMAN. Yes, sir.

Senator JONES, of Arkansas. There is no affidavit required in filing the protest?

Mr. WAKEMAN. I think there is by the representative of the importer, is there not?

Mr. L. B. CARHART. I do not think it is sworn to.

Mr. WAKEMAN. I do not think it is. He merely says, "I hereby protest," etc.

Senator JONES, of Arkansas. Would not a verification of the protest, something similar to a pleading in court, cover the point you mentioned—that the importer shall swear he believes he has just ground to complain that the law is not being correctly carried out?

Mr. WAKEMAN. I do not know. I do not think, however, it would make much difference.

Senator JONES, of Arkansas. Have many people been sent to the penitentiary in New York for swearing falsely in custom-house matters?

Mr. WAKEMAN. I think no one has.

Mr. HARTSHORN. We have done this within the last few months. We have brought an importer in and put him under oath, and he has sworn that it is the custom of the house which makes the goods in Europe to send to the American agent two invoices of the same merchandise—one a private or true invoice, the other an invoice to present to the custom-house, the private or true invoice representing the actual purchase price of the merchandise, the other invoice representing 40, or 50, or 60 per cent of that price. To enter those goods the agent or his representative goes to the custom-house and declares that the invoice which he presents is the true invoice—

Senator JONES, of Arkansas. And the only invoice.

Mr. HARTSHORN. And the only invoice of the merchandise, when he will have in his possession the true invoice, another invoice, bearing date and the name of the purchaser, which are filled in in New

York after the invoice arrives here as a matter of convenience. After we have done all that, and this law being as specific as it is, such an offense involving a fine of \$5,000 or two years in the State penitentiary, in the discretion of the court—

Mr. CARHART. And the forfeiture of the goods.

Mr. HARTSHORN. And the forfeiture of the goods, what more can the appraiser do?

Senator PLATT, of Connecticut. I think I agree with the remark of Senator Jones, in private conversation, that he should report the case to the district attorney. It is a clear case of perjury.

Senator JONES, of Arkansas. A clear case of perjury.

Mr. HARTSHORN. Let me say, in substantiation of the Senator's remarks, that you never will stop undervaluation, you never will get any respect for the Government and its representatives from the importing interests, unless you put somebody in the penitentiary for perjury.

Senator JONES, of Arkansas. An honest importer will be at the mercy of scoundrels so long as it goes on.

Mr. HARTSHORN. They will fail or retire from business, unless you put somebody where the law says he ought to go for such an offense.

Mr. WAKEMAN. Another point I should like to bring to your attention is on the question of the ten-day bond—the strengthening of the clause. I do not remember the number, but—

Senator PLATT, of Connecticut. That is in the Revised Statutes?

Mr. WAKEMAN. Yes. As you know 10 per cent of standard goods are brought to the appraiser for examination. If anything is thought to be wrong, he can call for the goods, and then the importer gives a ten-day bond; or when he enters the goods he gives that bond, and he can call for them during that time. May I remark that the records of this office show that nine times out of ten if we call for the balance of the goods they have gone into consumption.

Senator JONES, of Arkansas. At any time within the ten days?

Mr. WAKEMAN. Yes, sir; at any time within forty-eight hours. If we want all the invoice, we have to call for a man's goods before they arrive here. That is the only way for us to get them. If you can strengthen the clause regarding the ten-day bond—I do not know how; I am not a lawyer—if you can put it in the shape of liquidated damages or something of that character, so that the Government would have something when it has that bond, then we can accomplish very much better results, because if we can always get the goods it will have a very great tendency to stop undervaluation.

Senator JONES, of Arkansas. I understood, in the examination of some man on this point, that where a bond was given and the goods were not returned as required, the examined package having shown an undervaluation, in liquidating the entry the officers assumed that the balance of the goods were undervalued in the same way, and that they were liquidated on that basis.

Mr. CARHART. Oh, no.

Senator PLATT, of Connecticut. That is just what we want to get at in the appraiser's office.

Senator JONES, of Arkansas. He stated that the liquidation of the entries was proceeded with and considered as the amount that was due from the individual, and it was collected; and that practically there was no difficulty in its being collected in that way.

Mr. CARHART. If we should add anything to the value of the goods on the invoice which had not been in the public stores, the question

would come back to us promptly from the collector's office, "Were these goods under examination; were they examined by the appraiser?"

Senator JONES, of Arkansas. Does the collector increase the appraisement?

Mr. CARHART. Not so far as we have any knowledge whatever. We have every reason to think otherwise. He does not.

Senator JONES, of Arkansas. Suppose ten cases of goods exactly alike were brought in; that one case was sent up for examination, and that you should ascertain that the goods had been entered at one-half their value; that that fact was clearly established; that there was no question about it; and that the customs duties were assessed upon that found value of twice as much as the value at which it was entered. Do I understand you to say that the other nine cases, having been allowed to go under bond, would be settled for at what they were entered at and would not be valued at the valuation put upon the single case by the appraiser's office?

Mr. CARHART. Of course you take an extreme case.

Senator JONES, of Arkansas. Certainly. That is done for the purpose of illustrating the point.

Mr. CARHART. In many years' experience I have never known anything equal to that or approaching it.

Senator JONES, of Arkansas. I did not suppose you had. That was put to illustrate the point.

Mr. CARHART. I will answer it in this way: In my experience—and I can speak only from my own personal experience—I have ordered in goods frequently, when I was an examiner in this department, and the answer would come back, "They can not be furnished; they have been sold and distributed;" and then my action would be taken upon the goods I had. I never knew of a case so extreme as the one you state or anything approaching it, but I have reason to think that where I believe goods to be undervalued or wrongly classified, at a wrong rate of duty, and we could not reach them by getting them into the stores, if we should classify them upon our personal knowledge, the question would almost inevitably come back from the custom-house, "Were those goods examined in the appraiser's stores by an appraiser?"

Senator JONES, of Arkansas. Is not the examination of 10 per cent of the goods considered an examination of the goods?

Mr. CARHART. Not so far as I know.

Mr. HARTSHORN. If they are found correct.

Mr. CARHART. Not otherwise.

Mr. HARTSHORN. But if there is any irregularity with the tenth case under examination, the entire shipment is immediately ordered in; and where the goods can not be produced the importer almost invariably says, "I can furnish verified samples," sworn samples, he swearing that those samples are true samples from case so and so.

Senator JONES, of Arkansas. If they correspond with the samples you have assessed at a higher valuation, your assessment covers any such case?

Mr. CARHART. Where we have goods that are similar and not alike exactly, and we call for the goods in order to correct the valuation or classification, they say, "We can not furnish that case intact, but we will furnish verified samples." That seems to be all correct; but I have had samples sent to me as verified samples which manifestly had been imported a year or two or more before, being stale, old goods.

Senator JONES, of Arkansas. Is it a compliance with the law to send

one-tenth of goods similar, but not alike? Ought not the appraiser's office to have an examination of each different class of goods?

Mr. CARHART. Of course we ought. That is our struggle. If what is called the ten-day law, the bond provision, were corrected, so that we can really have the goods held until we have returned the invoice, not ten days thereafter, as the law now requires, we will soon do away with this thing.

Senator JONES, of Arkansas. On an average, how long would that be?

Mr. CARHART. Usually three days.

Senator PLATT, of Connecticut. You receive an invoice which may embrace a great many descriptions of goods, I suppose. The goods are packed, say, in ten cases. One of those cases comes into the appraiser's stores. The invoice may describe goods in the nine cases that do not come in, which are so identical with those you do advance that you can apply the advance to the whole number of cases. But ordinarily the goods in the other nine cases will not correspond so exactly with the description of the goods in the case which you examine that you can be sure that they are exactly the same goods and therefore subject to advance. Is that it?

Mr. CARHART. That is it. Allow me to explain that. Frequently the other nine cases are so entirely unlike that the goods which we have give us but an indefinite and approximate idea of the others; and if we find what we have to be incorrectly invoiced, the natural supposition is that there may be something wrong about the others. We want to get at the other nine cases.

Senator PLATT, of Connecticut. You get one case where there are miscellaneous goods, we will say. You find certain goods in that case, and in the other cases which do not come in you find an entirely different class of goods?

Mr. CARHART. Entirely different.

Senator PLATT, of Connecticut. If the goods in the examined case are undervalued, it is fair to suppose that the undervaluation has extended to the other descriptions of goods in the other cases, but those you can not touch?

Mr. CARHART. We can not get at them to appraise them.

Senator PLATT, of Connecticut. You can not touch the goods in the other cases unless the description is so exact and identical that you are positively sure that the same goods which you are advancing in the one case are to be found in the other cases?

Mr. CARHART. Yes, sir.

Senator PLATT, of Connecticut. That is a statement of the situation?

Mr. CARHART. Yes, sir.

Mr. WARNER SHERWOOD. The number of cases ordered in by the collector is not always limited to 10 per cent. It is sometimes two or three out of 10, and it applies to invoices where one case would not represent all. They send one, two, or three, about enough, judging from the invoice, so that the cases sent in properly represent the ten.

Senator PLATT, of Connecticut. If you find undervaluation in the cases sent in you can not deal with any other descriptions of goods in the cases which are not sent in and advance them?

Mr. CARHART. Where we order in cases which can not be furnished the appraiser may examine upon verified samples. That is the reason why I wish to say, as I did to Senator Jones, that the verified samples are very delusive. If we examine upon verified samples and appraise upon them, the importer sends any samples he chooses to us,

and the custom-house oath is all we act upon. We frequently find that that is no good whatever.

Senator PLATT, of Connecticut. It is replied to that suggestion that you have consular samples which correctly represent the goods in the invoice, and if the importer furnishes you with verified samples that do not correspond with the consular samples it is immediately detected.

Mr. CARHART. Not 5 per cent of our goods are represented by consular samples.

Senator JONES, of Arkansas. Whose fault is it that you do not get more than 5 per cent?

Mr. CARHART. It is because there is such an immense variety. How could I get samples of artificial flowers and feathers and wool and kid gloves from the consuls? I have 500 kinds of artificial flowers.

Senator PLATT, of Connecticut. I was going to ask you about the matter of consular samples. They can not apply to all goods?

Mr. CARHART. No.

Senator PLATT, of Connecticut. There are certain goods to which the system can not apply?

Mr. CARHART. Yes. As to textiles it can.

Senator PLATT, of Connecticut. And it can apply to staple goods?

Mr. CARHART. Yes, sir.

Senator JONES, of Arkansas. Are consular samples sent in as a rule for articles of that sort?

Mr. CARHART. I think they are. There is no fault in that direction.

Senator PLATT, of Connecticut. Does the consul verify the samples?

Mr. CARHART. Yes.

Senator PLATT, of Connecticut. By an examination of the goods in the case?

Mr. CARHART. By the the oath of the exporter.

Senator PLATT, of Connecticut. Then the exporter can present samples and say, "These are samples of the goods contained in the cases," and they may or may not be.

Mr. CARHART. Certainly.

Senator PLATT, of Connecticut. Then, when verified samples are produced here, he says, "They are samples of the goods which are in the cases." They may or may not be. In practice, what is the result?

Mr. SHERWOOD. The marks and numbers are put on by the consul, and they must agree with the descriptions on the invoice.

Senator JONES, of Arkansas. That would not prevent the fraud which Senator Platt suggests, if there were collusion between the exporter and the importer, and he sent you a line of false samples. How could you detect it unless there were an inspection somewhere?

Mr. CARHART. Practically there is no trouble in that direction. There is no real serious trouble. Practically the trouble is in the point I have heretofore tried to make clear, in getting the cases. If they hold these cases until we can get our hands on them we will correct it.

Senator PLATT, of Connecticut. If you have actual samples representing the goods in those cases, what more do you want?

Mr. CARHART. On textiles I do not believe there is any serious difficulty.

Mr. HARTSHORN. We do not get samples with every invoice. It would be impossible. We only get certain representative samples.

Senator PLATT, of Connecticut. Something was said about coriander seed, a ton of coriander seed having been sent in. Would there be any samples of that?

Mr. T. C. WORDIN. The practice in reference to one line of goods will not hold as to all. I have been here about fourteen months, and I have never seen a consular sample in my division.

Senator PLATT, of Connecticut. What is your division?

Mr. WORDIN. Food stuffs.

Mr. HARTSHORN. Liquids?

Mr. WORDIN. Both liquids and solids.

Senator PLATT, of Connecticut. They do not send samples of wine?

Mr. WORDIN. They do not send consular samples. I have never had one in my room. The remarks which apply to textiles would be misleading as to my division.

Mr. HARTSHORN. It would be unsafe to appraise the balance of an invoice where one-tenth had been found not correct, except from carefully verified samples. It is never safe from consular samples, whether they accompanied the invoice or not. The bond requires the entire shipment to be produced at any time within ten days after the liquidation, not the entry, as I understand it, but the liquidation of the invoice.

Mr. WORDIN. Its appraisement.

Mr. HARTSHORN. After appraisement. In calling for the goods we never get them. The appraiser suggests some change in the bond which will strengthen the situation. In two or three instances, in following after the goods and insisting upon them, I have been met with the assertion from officials older than I that this bond is absolutely worthless and that it has been so decided by the courts.

Senator PLATT, of Connecticut. I will come to that point. I take the first division, "All goods for which allowance is claimed for damage on the voyage of importation: Animals, living; barrels, casks, and kegs; coal; canes, unmanufactured; felt, roofing, and sheeting; guano; gutta-percha, unmanufactured; hoops; hoofs; hides; hide cuttings; horns; india rubber, unmanufactured; ivory, unmanufactured; ivory nuts; ice; lumber; oakum; paper stock; personal effects; packed packages; rags; rattan; sample office packages; seizures; stranded, unclaimed, and derelict goods; shells; shooks; spiling; spars; skins, not fur nor wool; veneering, wood, cabinet; wood pulp." There is one division. Is it practicable to furnish samples to the appraiser of that division?

Mr. GEORGE W. WANMAKER. I occupy the same position that Mr. Wordin occupies. I receive no samples; it is not necessary; they could not forward samples to me.

Senator PLATT, of Connecticut. They could not forward samples of ice?

Mr. WANMAKER. No, sir.

Senator PLATT, of Connecticut. When we talk about consular samples, they apply only to textiles and what may be called staple articles in textiles.

Mr. SHERWOOD. Fancy as well as staple.

Senator PLATT, of Connecticut. But Mr. Carhart says they never furnish samples of feathers.

Mr. CARHART. I have never had a consular sample in my division.

Mr. SHERWOOD. Probably in my division more samples come than in any other, and I find them of the greatest use; I detect a great many undervaluations from the samples.

Senator PLATT, of Connecticut. Your division embraces what goods?

Mr. SHERWOOD. Silks and laces and embroideries.

Senator PLATT, of Connecticut. Do you get umbrellas and parasols?

Mr. SHERWOOD. Yes, sir.

Mr. HARTSHORN. Do you get consular samples of them?

Mr. SHERWOOD. Not of those articles.

Senator PLATT, of Connecticut. Take an invoice of embroideries. Do you get samples of all the different kinds that come?

Mr. SHERWOOD. No, sir, we do not.

Senator PLATT, of Connecticut. So that even in your division there are certain articles of which you do not get samples. Do you get samples of regalias?

Mr. SHERWOOD. No. They are an unimportant article. In a large proportion of goods in our division we get samples.

Senator PLATT, of Connecticut. Of silks?

Mr. SHERWOOD. Silks, velvets, and ribbons.

Senator PLATT, of Connecticut. And braids?

Mr. SHERWOOD. And braids. The St. Gall embroideries are such that it would be impracticable to send samples, because there is such an infinite variety. Sometimes there are 3,000 patterns on a single invoice.

Senator PLATT, of Connecticut. Consular samples are not a protection as to all importations?

Mr. CARHART. No.

Senator PLATT, of Connecticut. A bond has to be given whenever there is an importation, unless all the goods are ordered into the public stores. If any portion is delivered to the importer, he gives a bond on every importation?

Mr. CARHART. If he desires the delivery of the goods to him. It depends on whether he wants us to deliver them to him, instead of sending them to the warehouse.

Senator PLATT, of Connecticut. So far as you know, the practice is that he puts those goods into consumption as soon as he receives them?

Mr. WAKEMAN. Yes, sir.

Senator PLATT, of Connecticut. Is the bond ever put in suit, so far as you know?

Mr. WAKEMAN. Since the passage of the law there has never been a suit brought under the bond, with one exception. There is now a case in court.

Senator PLATT, of Connecticut. It is said that the instrument is a penal bond in twice the sum of the—

Mr. CARHART. Double the estimated value.

Senator PLATT, of Connecticut. Double the estimated value of the merchandise. It is said that the Government can not recover on a penal bond of that character, as a matter of law, unless it can show that the goods are undervalued, and the Government cannot show that they have been undervalued unless they have the goods to examine and determine it. Is that true?

Mr. WAKEMAN. That is the general theory which I have heard advanced.

Senator PLATT, of Connecticut. That you understand is the reason why the bond is never put in suit upon failure to perform its conditions?

Mr. WAKEMAN. Yes, sir.

Senator PLATT, of Connecticut. Someone has said that the ten-day bond is a dead letter. Do you agree with him?

Mr. WAKEMAN. In practice it certainly is.

Mr. GEO. T. ALDRICH (counsel to appraiser). I have been told that there has been great difficulty in getting the district attorney's office to take up one of those bond cases by reason of its preconceived idea that there is no use in doing it.

Senator PLATT, of Connecticut. Do you know of any ruling by the Treasury Department or opinion of the Attorney-General to the effect that a recovery can not be had on the bond unless the goods have been produced and examined? I have heard it intimated that there has been some such ruling by the Treasury Department or opinion by the Attorney-General.

Mr. WAKEMAN. I have not heard it.

Mr. HARTSHORN. I have heard it, but I never followed it up.

Mr. ALDRICH. I have never heard it.

Senator PLATT, of Connecticut. I have never been able to find any such rule, but I have heard there was one.

Mr. CARHART. What ruling?

Senator PLATT, of Connecticut. A ruling either by the Treasury Department or an opinion by the Attorney-General that there could be no recovery on such a bond except where the goods have been actually delivered to the appraiser and examined to see if they were undervalued.

Now, suppose that the bond, instead of being for twice the estimated value of the merchandise, should be for a sum fifty or a hundred per cent greater than the estimated duties, and that the bond should provide that in case of failure to deliver the goods the amount specified in the bond should be taken and considered as liquidated damages, and that then it would not be objectionable to the legal difficulty which has been suggested. How would that operate?

Mr. WAKEMAN. It seems to me that is the only practical way to handle it.

Mr. HARTSHORN. It would be necessary to have the bond for twice the amount.

Senator PLATT, of Connecticut. It might be advanced a hundred per cent or more to put it at a sum over the estimated duties which would cover ordinary cases.

Mr. CARHART. I do not think the question of the amount of the bond is so important as it is to make its form so effective that something can be recovered.

Senator PLATT, of Connecticut. I do not know that it would be sufficient, but I am suggesting that the amount specified in the bond should not be greatly disproportionate to the amount of the duties, and that it should be agreed with the man who gives the bond that the sum should be taken as liquidated damages.

Mr. ALDRICH. That would destroy the penal character of the bond and make it more in the nature of a contract between the importer and the Government. I think that would do, although I would not like to state an opinion on the subject without careful investigation.

Mr. J. P. SKILLMAN. Let me state an instance. There was an invoice of seven cases, three of them being cotton goods. My goods are woolen goods—dress goods. One case came in and that was a case of cotton dress goods, and the invoice was sent to my division for classification. My goods pay a square yard duty, so that the consular samples are no guide except as to quality. They also pay weight duties. If we could get a case of each style of goods on an invoice, it would be all that is necessary.

I had about three weeks ago an instance of 12 cases of French goods, and we had 4 cases of a kind of goods that were not sent to us. There were 2 cases sent in, but they were entirely different from these. We have found since that those goods were not right. We had the consular samples only to go by. The henriettes are entered by the twill; so much a twill. We have found since that some of those goods were sold, and we found that they ran beyond the count on the sample, and we have sent to the appraiser to have a reappraisement of those goods, which he has ordered. We only accidentally found this out.

Senator PLATT, of Connecticut. It has been represented to us, first, that in case you found goods to be undervalued in the package submitted you applied the undervaluation to similar goods in all the other packages, and that the duties were liquidated and paid, so that there was no loss; second, that if it was found that an importer was doing that and refusing to deliver the goods, and refusing to produce samples or endeavoring to embarrass the appraisement of the goods, all his goods were ordered in from that time on. How is that in practice?

Mr. SHERWOOD. That is what we do.

Mr. CARHART. They are ordered in by the collector.

Mr. SHERWOOD. On the request of the collector. As to certain goods, where we have suspicions, we request the collector hereafter instead of sending in 10 per cent to send in the entire shipment.

Senator PLATT, of Connecticut. Does he do it?

Mr. SHERWOOD. Invariably.

Senator PLATT, of Connecticut. If an importer finds that thing to have occurred he will stop his undervaluation for a while, but when you go back to the old practice he will commence it again.

Mr. SHERWOOD. That is just our experience. It stops them for a while. Some it cures radically. Others go on, and in a little while they do the same thing. Then we order the goods in again.

Mr. CARHART. I wish to state, in regard to the matter of ordering all goods into the stores, that I have an illustration in my division of its wonderful effectiveness. Some fifteen years ago there was about the worse condition in kid gloves that was ever known in any line of merchandise. I do not suppose there were ever greater frauds committed than on kid gloves. Every possible device and trick were resorted to to cheat the Government. Many of them were successful. But the present examiner of kid gloves was in the service then, and he urged upon the collector that all kid gloves should be sent into the public stores, and from that time to this they have all been sent in. There is not a pair of kid gloves that does not come into the stores for examination. The result is that practically there is no trouble at all with kid gloves. It is simply on questions of classification; what kind of leather they are made of, whether of Schmahsen or lamb or kid. Those questions are to be determined by knowledge, and they are easily determined.

Senator PLATT, of Connecticut. I will ask what proportion of entries or invoices in this department, in practice, have the dutiable values increased over the invoiced prices?

Mr. WAKEMAN. That of course depends, first, on whether you have specific or ad valorem or compound duties. On specifics you have that eliminated. The present act has more specific rates than any tariff act, I believe, in the history of the country.

Mr. CARHART. And free goods as well.

Senator PLATT, of Connecticut. If the invoice is all specifics, there is no question of advancement.

Mr. WAKEMAN. I think any of the assistant appraisers can answer the question.

Senator PLATT, of Connecticut. Mr. Sherwood, what proportion of the entries of ad valorem goods, or goods with ad valorem and specific duties, compound duties, that come to your division are advanced?

Mr. SHERWOOD. I could not answer the question without looking at the figures, but taking them all together, specific and ad valorem, for the last six months it is about 6 per cent, whereas a year ago, before the new tariff went into operation, it was about 25 or 30 per cent. That difference comes from the fact that a very considerable proportion of the goods which were advanced largely then, silk goods, are now mostly specific. They are mixed to a certain extent. We think we are getting nearer to the values than we were a year ago.

Mr. SKILLMAN. For the last four months the percentage of advance in my division has been, on German dress goods, 40 per cent; on French dress goods, 35 per cent; on English dress goods, 20 per cent, rate and value.

Mr. HARTSHORN. It is a guess.

Senator PLATT, of Connecticut. I do not ask you to be accurate.

Mr. HARTSHORN. We have advanced a good many.

Mr. H. T. ANDREWS. As near as we can get at it it is about 7 per cent.

Mr. WORDIN. I should say not over 2 per cent, except in the matter of advance in classification, which is an entirely different subject. We have a very large number of advances in classification on tobacco—leaf tobacco; probably over 50 per cent, but advances in valuation in my division are quite small. I should say not over 2 per cent.

Senator PLATT, of Connecticut. An advance in classification involves an advance of value?

Mr. WORDIN. No, sir; a change of rate.

Senator PLATT, of Connecticut. It involves more money to the Government?

Mr. WORDIN. Yes, sir.

Senator PLATT, of Connecticut. A favorite method of undervaluation is by putting the articles in the wrong classification?

Mr. WORDIN. Yes, sir.

Mr. WAKEMAN. For instance, filler and wrapper tobacco.

Senator PLATT, of Connecticut. If a man wishes to get goods through without paying the legal duties, he can do it by false classification just as well as by undervaluation?

Mr. WORDIN. Yes, sir.

Senator PLATT, of Connecticut. My question, though it was not very clear, was intended to take in both.

Mr. HARTSHORN. I so understood it.

Mr. WAKEMAN. The work of this office I consider perhaps as important in classification or more important than as to values. Possibly there are more contests where a man has the intent to evade the law under classification than under value.

To illustrate it, take the tobacco cases which we have been contesting for twelve months or more. You will remember that at Key West last year they collected about \$2,800 in wrapper duties. After our examiners took charge there, under Mr. Wordin, in a month we collected in wrapper duties, I think, about \$30,000.

Senator PLATT, of Connecticut. That would be at the rate of \$360,000 a year?

Mr. WAKEMAN. The man who is attempting to evade the law does it more by classification than by undervaluation. That is where the work of this office comes in, I think, more than on pure appraisements.

Senator PLATT, of Connecticut. What would you say, not to speak accurately, but approximately, is the proportion of entries where goods are either advanced in value or reclassified in your office?

Mr. WAKEMAN. I should say that on values, taking the whole office, it would run between 5 and 10 per cent.

Senator PLATT, of Connecticut. On values alone?

Mr. WAKEMAN. Yes, sir; on rate or classification possibly not so high a percentage, but of greater importance in results, because a rate, once established, applies to those goods continually, and that does not come up again. The percentage on rate, of course, would be small.

Mr. SHERWOOD. I should like to say a word. In response to the question you asked in regard to the percentages of entries advanced, I said about 6 per cent in our division. That represented values only, and not classification.

Senator PLATT, of Connecticut. What would you say as to rate?

Mr. SHERWOOD. That would be guessing. I should say at least as much more.

Senator PLATT, of Connecticut. Do you suppose you detect, in the work of the appraiser's office, all of the undervaluations or improper classifications?

Mr. WAKEMAN. No, sir.

Senator PLATT, of Connecticut. Why not?

Mr. WAKEMAN. We are coming as close to it as we can.

Senator PLATT, of Connecticut. The bond business is one trouble?

Mr. WAKEMAN. The fact that we can not get the goods under the bond is one of the most important reasons; and, second, surrounded as we are in the district of New York very largely by information furnished by importers, it is difficult to get honest values very often.

Senator PLATT, of Connecticut. In other words, the importers who are undervaluing swear for one another?

Mr. WAKEMAN. Certainly.

Mr. CARHART. Right along.

Mr. SHERWOOD. When called as witnesses.

Mr. WAKEMAN. Certainly.

Senator PLATT, of Connecticut. Do you have that as a serious difficulty?

Mr. WAKEMAN. It is a very large difficulty. I remember one case—a diamond case—where we had before us representatives of such houses as Tiffany & Co. and the most reputable diamond merchants in the country. When the case came before the board of general appraisers, the importers simply buried us with cumulative evidence that we were wrong. They picked up some small dealers all around town, who probably never handled the kinds of rubies and pearls and diamonds that were under consideration. The cumulative evidence defeated the Government in that case.

Senator PLATT, of Connecticut. Are undervaluations more common in the case of purchased goods or in what are known as consigned goods?

Mr. WAKEMAN. I think in consigned goods.

Senator JONES, of Arkansas. You say you were buried, overwhelmed by the dealers. Who was right in that case, the Government or the dealers?

Mr. WAKEMAN. I referred to that case as it left us and went to the general board. Our decision, of course, was rendered on the character of the merchants whom we called before us, representing houses like Tiffany, Bailey, Banks & Biddle, of Philadelphia, and other houses who handle these goods and know their value. When the case went to the board, the attorneys for the protestant, of course, brought forward a great deal of evidence from small dealers, and the board recognized the cumulative evidence as against the evidence produced by this office. Of course, over that we have no control.

Senator JONES, of Arkansas. You said a while ago that there is some difficulty in getting at actual values.

Mr. WAKEMAN. Yes, sir.

Senator JONES, of Arkansas. In that case there was doubt whether your valuation was right?

Mr. WAKEMAN. Yes, sir; on the part of the protestant.

Senator JONES, of Arkansas. It was not absolutely certain that this office was infallible?

Mr. WAKEMAN. That is true.

Senator JONES, of Arkansas. When the general appraisers took testimony they found for the dealers. You spoke of it as an instance of one of the wrongs done. It seems to me it proves that a mistake was made in this office and not by the other side.

Mr. WAKEMAN. I gave that as an illustration of how difficult it is to sustain the Government in cases, especially on value.

Senator JONES, of Arkansas. The Government ought not to be sustained when its officers overvalue goods.

Mr. WAKEMAN. Certainly not.

Senator PLATT, of Connecticut. The point Mr. Wakeman makes is this: We will suppose that it is a question of dress goods, and reputable houses, like Lord & Taylor, Arnold, Constable & Co., and a number of such houses, a half dozen of them, all agree that the price of those goods, which they are purchasing and selling, is, say, a dollar. Now, I suppose, when the case comes before the Board of General Appraisers the importers will bring in 50 witnesses.

Mr. WAKEMAN. A great number.

Senator PLATT, of Connecticut. Those witnesses testify that they deal in those goods, and that they are not worth more than 65 cents; and those men are engaged, openly or indirectly, in the business of undervaluation.

Mr. WAKEMAN. Here is an illustration [exhibiting a handkerchief]. A line of handkerchiefs was brought through here. I have not disposed of that case, and I merely happen to have the handkerchief here. Here [indicating] are the marks and number. The largest houses in this city said they would give 3 pence over the invoiced value for this very line of handkerchiefs, and yet the evidence, cumulatively, is very strong against the appraisement we have made.

Senator JONES, of Arkansas. Did you appraise them at 3 pence higher?

Mr. WAKEMAN. I do not remember.

Mr. HARTSHORN. We advanced it 4.

Senator JONES, of Arkansas. These men said they would give more than the handkerchiefs were entered at?

Mr. WAKEMAN. Yes, sir.

Senator JONES, of Arkansas. That does not prove what the market price is. You might find a man who would take them at more than the market price.

Mr. WAKEMAN. Not 10,000 dozens.

Senator JONES, of Arkansas. The point is to find the market price.

Mr. WAKEMAN. That is what we are after.

Senator JONES, of Arkansas. That is a matter of fact to be ascertained by testimony, and if the overwhelming number are on the side against the Government, it would raise a presumption in my mind that the valuation was a fraction too high.

Mr. WAKEMAN. The point is that oftentimes a half dozen people are notified by their counsel, you understand, or by their agent, to come here to testify as to the value of the goods. They are posted as to what they are invoiced at, and they come here and swear they are worth that sum. It amounts to conspiracies in evidence.

Senator JONES, of Arkansas. Are you justified in charging that a number of merchants or importers coming in here and swearing to the same thing are guilty of conspiracy in doing it any more than the officers of the Government are guilty of conspiracy in offering testimony to sustain the other side?

Mr. SHERWOOD. The object of the merchants in doing that is to sustain their own invoice.

Mr. WAKEMAN. Yes.

Senator JONES, of Arkansas. Your object in bringing testimony on the other side is to sustain your side.

Mr. WAKEMAN. To get the honest market value.

Senator JONES, of Arkansas. The presumption, unless you can show to the contrary, is that these men are trying to get the honest market value. There is a difference of opinion between men on these questions, and it seems to me to be perfectly natural. The honest importer, a man who means to do exactly right, will undertake to get his goods in as cheaply as he can, so that he brings them in at the market price.

The Government, on the other hand, wants to get the full amount of the customs duty that ought to be paid on those goods; and there would very naturally be a tendency on the part of the officers of the Government to give the benefit of the doubt to that side. The leaning is one way on one side and to the other on the other side. There is an honest difference of opinion among these men. Men are influenced by that sort of bias. This is one of the practical things you have to deal with. When you are dealing with a reputable house, I think when its representatives come here and make these statements they believe what they state to be true. While you may think they are undervaluing, you yourself believe it is an honest undervaluation on their part; not fraudulent, not intended to swindle the Government. I can understand that. I do not think you have a right to charge these men with being guilty of conspiracy because they differ with you as to the value of goods.

Mr. WAKEMAN. Not at all.

Mr. HARTSHORN. In the same line, reputable traders will come to this department and testify as to values, and then on reappraisement the same identical witnesses will go before a general appraiser and swear directly different from what they have testified to before us. Does it not look considerably as though they have found out the bearings of the things, and therefore modify their testimony?

Senator JONES, of Arkansas. It looks to me as though they were dishonest men.

Mr. HARTSHORN. I investigated the purchase of some collars, through a special agent in London, and he was met by five of the people he approached with this one almost stereotyped answer, "I will not go back on my friend John Doe"—the man who had sent the collars here at less than their value. In other words, they would not open their mouths as to what the goods were worth.

Senator JONES, of Arkansas. That sort of a case would justify the charge of conspiracy.

Mr. HARTSHORN. We meet that all the time.

Senator PLATT, of Connecticut. I wish to put a question directly. Is it not true that the class of witnesses who come before the Board of General Appraisers to show that you have made a mistake in valuing goods too high are men whom you suspect are engaged in the business of undervaluation to a large extent?

Mr. WAKEMAN. Not always, but very often.

Senator PLATT, of Connecticut. To a large extent?

Mr. WAKEMAN. Yes.

Mr. HARTSHORN. I should say almost invariably.

Mr. WAKEMAN. I should not say that.

Senator JONES, of Arkansas. That is a pretty broad charge to make.

Mr. ALDRICH. I think the matter can be explained in this way: I will not say that the board will not decide the case honestly, but certainly the preponderance of witnesses, if not the preponderance of evidence, is on the side of the importer.

Senator JONES, of Arkansas. You say the preponderance of witnesses governs the board?

Mr. ALDRICH. I do not say that. I took occasion not to say it. I would not intimate it for a moment.

Mr. HARTSHORN. Senator Jones has indicated the real seat of the disease. The administrative law, with very few changes, is as near complete as you can get it, if it is administered; but it is maladministered. The next law that you may enact to take the place of this will probably be maladministered. Consequently you will not, by changing the law, cure undervaluations. The importer will go on until the crack of doom to get his goods just as cheaply as he can under any administrative law, and the only relief is in administration.

Mr. SHEERWOOD. In regard to undervaluations, I will state that one of the greatest troubles we have in our department is that there is a considerable quantity of goods that come only on consignment, the manufacturers of which refuse to sell on the other side and only sell here through their agents. With those goods it is very difficult. We have no goods with which we can make comparison.

Senator PLATT, of Connecticut. The samples come in those cases?

Mr. SHEERWOOD. Oh, yes; we get samples, but no goods of such description are purchased. The manufacturers in certain towns make a combination and will not sell their goods there, but consign them to this market. In that case we have no invoice of purchased goods with which to make comparison.

Senator PLATT, of Connecticut. Is there a uniform appraisement of value and classification at the different ports throughout the United States?

Mr. WAKEMAN. No and yes. The matter of uniformity of appraisement at different ports probably gives us as much trouble as anything else. Of course we have a great plant and some of the best experts

in the world. You take a small port of entry, and the collector or the surveyor, as it may be, has to do all the business, and naturally he can not handle the appraisement of goods as it is handled here. There is no port in the country that can handle the goods or does handle the goods as we do here. We had a conference of local appraisers here last summer.

Senator PLATT, of Connecticut. From where?

Mr. WAKEMAN. From all over the United States, representing every leading port. There were eleven ports represented. I will give an illustration in answer to the question. I found that ground flint used for the manufacture of pottery was passed as a nonenumerated article at one port, as a manufactured mineral substance in another, and under section 97, I think it was at this port, at 35 per cent. We all agreed to 35 per cent.

Senator PLATT, of Connecticut. That is under the Dingley act?

Mr. WAKEMAN. Yes, sir. There were three ports having three different rates—rate and classification. We went through a whole maze of samples of merchandise, and I suppose that during that ten days' or two weeks' conference there were a hundred articles considered and a hundred samples considered, as to which we arrived at uniformity of rate and classification. We are getting nearer to it every year and every month.

Senator PLATT, of Connecticut. What are the ports where there is an appraiser's division?

Mr. WAKEMAN. The ports of New York, Boston, Philadelphia, Baltimore, New Orleans, St. Louis, Cincinnati, Detroit, Buffalo, Chicago, San Francisco, and I think Portland, Oreg.

Senator PLATT, of Connecticut. There is a system which is called the I. T. system.

Mr. WAKEMAN. Immediate transportation in bond.

Senator PLATT, of Connecticut. There goods are entered at one port and delivered at an interior port, and very possibly a port where there is little business done?

Mr. WAKEMAN. We have great trouble from that cause.

Senator PLATT, of Connecticut. Is it possible that the appraisement of goods at those small ports should always be intelligent?

Mr. WAKEMAN. It can not be intelligent. I will illustrate that. Yesterday we had an examiner from Mr. Andrews's division at Toledo, examining kitting machines brought in I. T. In fact, there has been an attempt to bring them in as tools of trade. They are worth \$3,000 a piece, being great, long machines, 24 feet long. After having forced the entry of the goods, they entered them at \$15,000, the estimated duty being \$7,100. It illustrates how our examiners are sent all over the country. The Secretary of the Treasury selects a man from here to go to the different ports.

Senator PLATT, of Connecticut. Not to be invidious, there is a town in Connecticut called Enfield. It has a single woolen factory, though a large one. It is within the limits of the Hartford district. It has been made a subport of entry. Goods are entered at New York and shipped right up there. The practice, I suppose, is to send a person from the collector's office in Hartford to appraise the goods at that subport of entry, there being no officer there?

Mr. WAKEMAN. Yes, sir.

Senator PLATT, of Connecticut. He may or may not be an expert; very likely he is in that case; but it illustrates how goods are sent for immediate transportation.

Mr. WAKEMAN. To illustrate how we have followed this up, I will state that we have daily reports from Mr. Wordin's division on tobacco. We have, in the tenth division, a report from the collector of all goods entered I. T. The reports are sent to the Secretary of the Treasury, and examiners are sent from this office to all ports where it is thought fraud may possibly occur, in order to secure a proper classification of the tobacco.

Senator PLATT, of Connecticut. Have you not evidence of the system of immediate transportation of goods being used by importers for the purpose of getting a more favorable rate at an interior point?

Mr. WAKEMAN. There is the illustration I have just given you at Toledo as to the knitting machines.

Senator PLATT, of Connecticut. Where were they to be used?

Mr. WAKEMAN. At Fort Wayne, Ind.

Senator PLATT, of Connecticut. They were entered at Toledo?

Mr. WAKEMAN. They were entered at Toledo.

Senator PLATT, of Connecticut. They were sent to that subport?

Mr. WAKEMAN. They went through here I. T.

Senator PLATT, of Connecticut. They were not sent to the place where they were to be used?

Mr. WAKEMAN. No, sir; but to Toledo.

Senator JONES, of Arkansas. To be used where?

Mr. WAKEMAN. Fort Wayne, Ind.

Senator PLATT, of Connecticut. Is Fort Wayne a subport of entry?

Mr. WAKEMAN. I think not.

Senator PLATT, of Connecticut. Toledo is the nearest subport of entry?

Mr. WAKEMAN. Yes, sir.

Senator PLATT, of Connecticut. That was all right, then?

Mr. WAKEMAN. Yes, sir; but we had to go there to examine the goods. If we could have examined them here, it would have been better.

Senator PLATT, of Connecticut. Have you had any cases where parties living in New York have landed their goods and had them sent to interior ports for appraisement?

Mr. WAKEMAN. I will ask any assistant appraiser whether he remembers such a case. Mr. Wordin, do you?

Mr. WORDIN. Not in my division.

Mr. WAKEMAN. Except as to tobacco?

Senator PLATT, of Connecticut. I think I heard of some cigars being sent by seaboard parties to Denver.

Mr. WAKEMAN. It is very common to send them to any town, but whether it is with intent to defraud it is hard to say.

Mr. WORDIN. We do not always know what becomes of the goods after they are liquidated. The goods may be sent to other ports with the intention to use them in New York, but we lose sight of them after the duties have been paid. That might happen and we not know of it.

Mr. WAKEMAN. I have one illustration in Dr. Hamill's division. It was not an I. T. entry. The goods were going to Philadelphia. It is a very interesting point.

Mr. HAMILL. They were surgical instruments, known as gum catheters and bougies. They had been driven out of the market here. The people who had been bringing them here advised us that people coming from Philadelphia offered those goods at a less value, duty paid,

than they could be got for direct from the manufacturer. So we instituted an investigation there through the special agents' office, and we found that parties were bringing in merchandise over there at about one-half what these people had been paying for the merchandise for the past two years, or that they could be got for direct from the manufacturer. We stopped it. The case is now before the Board of General Appraisers.

Goods are continually coming in and going to such places as Syracuse, and are acted upon by a young fellow who is located at Rochester. He is a clerk and examiner, and everything else. He passes on all kinds of goods, from textile goods to tobacco, drugs, chemicals. Occasionally he gets confused on values and refers some of the questions down here. He has referred them to our office; I do not know whether to others.

We have had merchandise come to this port which we had to reject under the regulations, not being up to the standards provided by law. The goods were reshipped to London and eventually found their way back to New York through another port.

Mr. WORDIN. We have that in tea.

Senator JONES, of Arkansas. Dr. Hamill said a while ago that in the Philadelphia case they were offering goods in New York at a price less than the articles could be brought from abroad.

Mr. HAMILL. Less than they could get quotations from the manufacturer abroad. People here had been buying them direct, at the foreign market value.

Senator JONES, of Arkansas. How could those men, even after paying half the duties, sell the goods at less than they cost abroad?

Mr. HAMILL. They did not pay for the merchandise what it was quoted at to other people. What they paid for the merchandise was less than 50 per cent of the price quoted to other people.

Senator PLATT, of Connecticut. What special difficulty do you have in arriving at market value, in the principal markets of the country from which goods are exported, on what are known as consigned goods? Where does the difficulty come in?

Mr. WAKEMAN. That depends upon whether they are legitimately consigned goods or consigned for the purpose of undervaluation. With legitimately consigned goods we have some trouble. Take the question of hides. Mr. Wanmaker has charge of that.

Senator PLATT, of Connecticut. Mr. Punderford testified about it the other day.

Mr. WAKEMAN. You might divide them into two classes, the legitimate consignments—

Senator PLATT, of Connecticut. To commission merchants?

Mr. WAKEMAN. To commission merchants, and those which are consigned to their own agents.

Senator PLATT, of Connecticut. Now tell us about that.

Mr. WAKEMAN. Take legitimate consignors. If they are competitive goods we can arrive at the market value through special agents and consuls abroad and by comparison and inquiry at home; but it is different when the goods are consigned to their own agents. If you please, Mr. A, at St. Gall, a manufacturer, consigns to Mr. A, at New York. He controls information as to the production of these goods and is not willing to sell to any merchant, thus avoiding any publicity as to value, and his own agent controls the sale. Therefore it is very difficult to get at anything like honest value.

Senator PLATT, of Connecticut. Is there or is there not a class of goods which manufacturers abroad refuse to sell to our purchasers there in the currency of their country?

Mr. WAKEMAN. That is the very class of goods to which I refer. They refuse to sell except in dollars and cents laid down in Chicago, New York, or Boston.

Senator PLATT, of Connecticut. In other words, they say, "You must purchase of our agent in New York?"

Mr. WAKEMAN. Yes, sir; absolutely.

Mr. SHERWOOD. They will name you over there the imported price, landed through the partner in New York.

Senator JONES, of Arkansas. But they will not sell those goods abroad to anybody?

Mr. SHERWOOD. Not to anybody.

Mr. CARHART. That is, to come to this country.

Senator JONES, of Arkansas. But a man who buys the goods can do with them as he pleases?

Mr. CARHART. No; he can not.

Mr. WAKEMAN. They will not sell him the goods.

Mr. CARHART. They will sell the goods to go to Germany, or England, or South America.

Senator PLATT, of Connecticut. They say, "We have an agent in New York. If you want these goods, buy from him."

Mr. CARHART. You can not get them in any other way.

Senator JONES, of Arkansas. Is not the same thing done by piano manufacturers selling pianos in the States? I have asked a piano merchant in New York to sell me a piano, and he has declined and has referred me to his Arkansas agent.

Mr. WAKEMAN. Here is the condition we find: Without referring to the names of any of the importers, in Mr. Sherwood's division and also in Mr. Hartshorn's we found there were large undervaluations. We started on this work last January or February, I think it was, and the consignees in New York would furnish absolutely no information. As I said, A at New York was A at St. Gall. We brought them in here, and tried to make use of sections 16 and 17 of the administrative act. We placed them under oath. Then we could get very little information. Finally, by following up where the goods went, to whom they were sold, we were able to arrive at some information regarding them.

For instance, a part of an invoice we found sold to Mills & Gibb. We found the price at which it was sold. A sold St. Gall through A at New York to Mills & Gibb. We got the selling price to Mills & Gibb, which was practically St. Gall to Mills & Gibb. Then we formed a plan to use that for a guide; and comparing the selling price to this firm in New York with the invoice price, we found the goods ought to be advanced all the way from 30 per cent up to, in some cases, I think, 115 per cent, which was the highest.

Mr. HARTSHORN. 138 per cent.

Mr. WAKEMAN. It was sustained by the Board of General Appraisers after a most thorough contest on both sides. I give that as an illustration.

Here is the selling price of these goods. It does not make any difference whether you take one article or the whole invoice. Take 100 as the unit of value to start with; duty 60 per cent; 5 per cent you allow for commissions. Then you have a cumulative rate of 165. You divide the selling price by 165, and you arrive somewhere near what

ought to be the selling price at St. Gall. But come to find out, on this invoice, where the goods should have been invoiced at 100, they were invoiced at 50, and sometimes less. So I say with legitimate concerns we do not have very much trouble, but where the goods are consigned to themselves in the United States we have great trouble.

Senator PLATT, of Connecticut. You have illustrated it by the St. Gall case. Is that an isolated case?

Mr. WAKEMAN. No, sir; not at all.

Senator JONES, of Arkansas. The law requires that you shall ascertain the value of the goods in the principal markets of the country of exportation. That is the first thing, and if you can do it, that settles it. If you can not do it, you must get at it the best way you can otherwise. While these people refuse to sell goods to America or for the American market, you say they do sell them to the British market, the German market, and the South American market, and everywhere else. Why can you not ascertain the value of those goods when they are being sold to other countries, if not for the American market?

Mr. WAKEMAN. We do that very often. Take the French china cases. We have not always the facilities to go to such an extent in ascertaining market value. In this case we made an exception, and through the Canadian customs officers, whom we have served in several ways, we obtained the original invoice of French china sent to Canada. Through the agent abroad—we had a special agent go from here—we obtained the prices at which they sold to the English market. We would never have won the case had it not been for that information. It was very valuable information.

Mr. ANDREWS. In answer to Senator Platt's question, take a recent case of machinery. Quite a number of machines were imported. They do not sell them. They are goods consigned by the concern over there to the agent here. They are rented out. They were invoiced at £6 each, and they were advanced 200 per cent. The advance has been sustained. They bring in a rent of about \$1 a day.

Mr. WAKEMAN. Royalty.

Mr. ANDREWS. Royalty. It is a very successful machine, and a great many of them are used.

Mr. WAKEMAN. But he does not sell them.

Mr. ANDREWS. It is estimated that he gets 8 per cent return on a thousand dollar investment. How are you going to find the value of that machine? We raised it from £6 to £30. It is impossible for anybody to buy them.

Mr. WAKEMAN. How can you get the market value?

Mr. ALDRICH. We have another case of consignment, where the goods are consigned to an agent here, who is, of course, interested in the house, and who makes the sale. We get the consignee here and examine him as to the market value of the goods, and he makes this statement: "I do not know anything about the market value of these goods. I am only the consignee for the purpose of entering and delivering them to the ultimate purchaser. I do not know anything about what the value of the goods is." We can obtain no information from him.

Senator PLATT, of Connecticut. Is it becoming a usual method for a manufacturer to export goods to his agent here, who takes the order for them in this country?

Mr. WAKEMAN. Very largely in certain lines. I should say—I think I am correct—that the embroidery business is done in that way to the extent of 90 per cent.

Mr. SHERWOOD. Seventy-five per cent anyway.

Senator PLATT, of Connecticut. You talk about embroidery all the while. Is that the common practice in all lines?

Mr. CARHART. It is not universal, but it is practiced in hosiery.

Mr. SHERWOOD. It applies to silks very largely.

Mr. ANDREWS. The machines I spoke of were embroidery machines. A great many embroidery factories are starting up.

Senator PLATT, of Connecticut. Is that practice growing?

Mr. WAKEMAN. Yes, sir.

Senator PLATT, of Connecticut. The number of parties who receive imported articles here, and who are merely agents, is growing all the while?

Mr. WAKEMAN. It is growing greatly. It was testified the other day by Mr. Wright, of Arnold, Constable & Co., that in certain lines they did nearly all of their buying—60 per cent of their buying—here. That is one of the most prominent houses in America. It was also stated by Mills & Gibb that a large proportion of their business had to be done in the same way; Mr. McCreery also said that 25 to 30 per cent of his was done in that way. You can judge better by taking their evidence than by ours.

Mr. ALDRICH. While embroideries constitute only one commodity, and a very small percentage of the number of commodities coming into this port, yet when we consider embroideries in their relation to duty as a revenue bearer—60 per cent—you can see that they make a very large item.

Mr. WAKEMAN. The result of our investigation thus far in that line has been to secure an advance of the invoiced value which will make a difference of fully 20 per cent upon the importations from St. Gall, with a gross increase of fully \$1,400,000 upon invoices which, at the rate of 60 per cent, will be a gross increase on this line of goods of nearly \$800,000. That has been thus far accomplished, and I think when we are through with this matter, you will find that the gross increase on this one line of goods will amount to between \$1,000,000 and \$1,200,000 in duties.

Senator PLATT, of Connecticut. Your opinion is that the Government has been annually losing that amount of money by not having been able in the past to collect the proper duties?

Mr. WAKEMAN. Absolutely.

Mr. HARTSHORN. I wish to state that under section 19 of the customs administrative act appraisements can not legally be made on the line indicated by Senator Jones just now, by finding out what the same merchandise intended for other countries is worth. Section 19 says that merchandise for the United States shall be appraised "in the condition in which such merchandise is there bought and sold for exportation to the United States, or consigned to the United States for sale, including the value of all cartons, cases, crates, boxes, sacks, and coverings of any kind, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States. \* \* \* That the words 'value' or 'actual market value,' whenever used in this act or in any law relating to the appraisement of imported merchandise shall be construed to mean the actual market value or wholesale price as defined in this section."

Senator PLATT, of Connecticut. They pack goods differently for exportation to other countries?

Mr. HARTSHORN. Yes. It would be a guide to us, but according to

the law we have to compare those goods with goods designed for the United States, and for no other country.

Senator PLATT, of Connecticut. What is your opinion of the value of consular certificates in enabling you to arrive at a just appraisal of goods?

Mr. WAKEMAN. My assistant appraisers can speak of that more fully than I can.

Senator PLATT, of Connecticut. The question I ask is, how far, if at all, the consular certificate aids you in ascertaining the dutiable value of goods?

Mr. J. H. BREWER. We are generally controlled by the reports sent us by the consular agent, but I find that the Board of General Appraisers do not take them as evidence at all when the case goes before them.

Senator PLATT, of Connecticut. Do the consuls abroad have facilities for knowing the real value of the goods exported, and do they take the trouble to inquire into it?

Mr. BREWER. In some instances.

Senator PLATT, of Connecticut. Do they refuse to receive the invoices if they do not correspond with what they believe to be the true value of the goods?

Mr. BREWER. In some instances they have facilities for finding the market value, and then they are of a good deal of assistance to us. In other instances they do not seem to be doing anything at all.

Mr. ALDRICH. Why would not the case of the consolidated invoice come in point right here?

Mr. BREWER. It might. We have trouble here in this way: One firm, for instance, has an agent on the other side. He goes out and buys from, say, a dozen different manufacturers. Those goods are all sent to his agent, and then a new invoice is made, called a consolidated invoice; the numbers are all changed, differing entirely from the manufacturer's invoice. The description of the goods is not descriptive at all. Sometimes where there are twelve manufacturers represented in the invoice, we get but four manufacturers represented. The other eight have no examination at all.

I have been trying, so far as I am concerned, to correct that matter ever since I have been here. I do not see any way to do it other than to have the State Department issue instructions to consular agents to refuse to take such invoices. I do not think that has been done.

Senator PLATT, of Connecticut. Do you think the State Department could make the work of the consuls more effective in these particulars by instructions to them?

Mr. BREWER. I think if they would instruct them not to receive such invoices it would be more effective.

Mr. ALDRICH. There is a Treasury decision which I saw to-day, addressed to the Secretary of State by the Secretary of the Treasury, in which it is held that the requirement in those cases is that they shall have a separate invoice from each one of the twelve or more manufacturers on the other side. I will show you that.

Mr. BREWER. I have not seen it.

Senator PLATT, of Connecticut. Which consul makes the certificate? Suppose there is an exportation from Berlin. There is a consul-general at Berlin, and there are consuls scattered at points near by.

Mr. CARHART. Wherever the goods are purchased.

Senator PLATT, of Connecticut. Is it not a fact that exporters, instead of getting the certificate from the consul from whom it would

be most appropriate to get it, go to somebody else, a vice-consul or an officer of that kind, at a little distance from the place which would be the natural place where the certificate should be made, and get that consul's certificate?

Mr. BREWER. That is true.

Mr. WAKEMAN. We have a great deal of trouble in that way.

Senator PLATT, of Connecticut. It is enough to put you on guard, almost, as to whether or not it is proper; whether there is a reason for it?

Mr. CARHART. To depend upon the consul's certification of value is to suppose that the consul himself is an expert; and it very rarely happens that he is an expert. If the consul would extend his work in another direction it would help us very much. If he would require the invoice to furnish upon its face a detailed description of the goods, and a specification of the amount of goods contained in each separate case, it would facilitate our work very much, but his opinion as to value is not likely to be of very great help to us. The trouble is that after we have made our advance, we have to maintain that advance before the Board of General Appraisers in most cases.

I have now on my desk a detailed statement by a special agent on the other side, who seems to have worked very conscientiously and very hard on an important case. I question very much whether all the papers he has sent to me, all the opinions he has given me, are going to be of any value before the board. They seem to attach so much more importance to the word of an importer here, whatever his character. His standing with us may not be very high. They attach a certain amount of weight to his testimony. This agent of the Government, who has gone over there for the purpose of getting accurate information, sends back his detailed report, and it does not seem to have much weight with them.

There is a regulation, which was made a considerable while ago, expressly stating that the proceedings before the general appraiser were not judicial, and that the information furnished there was not testimony; and yet the present Board of General Appraisers go on and talk about the preponderance of testimony, as if these men were testifying as to a state of facts. Market value is a matter of judgment, a matter of opinion, and these men who buy goods come to me, or I go to them, and they give me information, not testimony. They tell me what they think about it, and I have to take it and dissolve it in my own mind, and determine what I think is the market value.

Mr. SHERWOOD. You compare the goods.

Mr. CARHART. In the appraisement of merchandise I compare the goods, using my previous business experience. I have been in the dry-goods business most of my life. It appears to me as though the general appraisers depended more upon the testimony furnished at the time than upon their judgment and experience, which is contrary to the decision I have referred to, holding that proceedings before general appraisers in the ascertainment of dutiable value are not judicial, and that market value is a matter of judgment and opinion rather than a pure question of testimony.

Senator JONES, of Arkansas. Who decided that?

Mr. CARHART. The Department; the Secretary of the Treasury.

Senator PLATT, of Connecticut. It is not a judicial proceeding.

Mr. CARHART. They treat it so much so that it is very difficult for us to maintain ourselves before them.

Senator JONES, of Arkansas. I understood you to make a suggestion as to the duty of the consul with respect to invoices.

Mr. CARHART. I have an illustration of that. I have an invoice containing six or eight or ten cases. Right in the midst come two cases, No. 193 and No. 194, say; window decorations, value 6 pound ten; not a word more about it; no specifications.

Senator JONES, of Arkansas. What suggestion do you make?

Mr. CARHART. That the consul should demand and require, before he certifies to an invoice, that it contains a detailed statement of the contents of each case and a description of the goods.

Senator JONES, of Arkansas. You think the law ought to be changed so as to require the consul to do that?

Mr. CARHART. I do not know whether it is law or regulation.

Senator PLATT, of Connecticut. It is law now.

Mr. CARHART. I believe it is. I think if you will read over the consular certificate, if not in terms, in spirit it certifies to that, but it does not give it.

As Mr. Hartshorn has stated, it is very largely a matter of maladministration. The law is not enforced in its spirit. We get invoices here which we can not depend upon at all. I had occasion to order goods way back from San Francisco. They were called cotton braids. We finally got some samples sent to us from San Francisco. Whether they truly represented the goods or not I can not say, but we gave them a half dozen different classifications—some of them all silk. They were all entered as straw braids.

Mr. HARTSHORN. As to a consul certifying to the correctness of the invoices, to which he does certify, I will say that it is impossible for the average consul to be of much service in the direction of values, as raised by Senator Platt's question. We put an expert in St. Gall to assist the consul in arriving at the values of those laces, embroideries, and handkerchiefs, and by his investigations, he having been a practical manufacturer all his life, we are getting valuable information from St. Gall which it would be absolutely impossible for the consul to give.

I will illustrate it: Mr. Whitehead went there, himself, and, by the aid of experts, manufacturers, whom he called to his assistance, took an invoice of Jacob Rohner, of Switzerland, to Arnold B. Heine, of New York—a pretended sale of merchandise from Rohner to Heine. The result of the investigation of that invoice was that the merchandise was sold from the manufacturer, Rohner, to Heine, the pretended purchaser, at 54½ per cent less than the bare cost possible to produce the merchandise in St. Gall or in Switzerland, in that consular district.

Now, that fact could only be dug out by experts, who might be placed under the consul, to report to the consul, but it would be impossible for the average consul at any consulate to reach the desired result as indicated by the Senator's question.

Senator PLATT, of Connecticut. Mr. Wakeman, do you think any improvement could be made, by a better organized system of appraisal throughout the whole country, if there were a supervising appraiser? Perhaps you are the supervising appraiser here, in fact?

Mr. CARHART. In fact.

Senator PLATT, of Connecticut. Do you think any improvement could be made by having an official deputed for that particular duty?

Mr. WAKEMAN. I have never given any thought to it. The examiners of this office or the assistant appraisers are to-day called on for that character of work all through the country. I believe we are doing

very well. There is no such person as a general supervising appraiser, except, of course, the Board of General Appraisers are supposed to fulfill that function under the law. They are the agents of the Government. That is the intent of it.

Senator PLATT, of Connecticut. How does the change of law, which commences to impose the penalty for an undervaluation at 1 per cent, whereas before it was only when there was an undervaluation of 10 per cent, operate?

Mr. WAKEMAN. There is some diversity of opinion among us on that point. I believe one of our number is in favor of a limit similar to the old law. I believe that is one of the wisest provisions of the present act. This office does not attempt to consider 1 per cent, practically. If we can get all the importers within 1 or even 3 or 4 per cent of the market value, I think we shall have attained a great end. But the knowledge that if the goods are undervalued, a penalty of 1 per cent attaches to every 1 per cent found has had the most wholesome effect upon the importers of all classes of goods. Of course, having so many specifics in the present law, this provision has not made the record that it otherwise would naturally have made, but considering the number of goods transferred to specific and the number now on an ad valorem basis, more additions to make market value have been made under the present law than under any previous law.

When I became appraiser, in July, 1897, I noticed that every invoice which would come to me that had been raised to make market value almost universally would read "9½ per cent," "9 per cent," and "8 per cent." They would never go over that fence, unless it was the grossest undervaluation.

Senator JONES, of Arkansas. It has been stated to me that the practice now is, because of the unwillingness to inflict the penalty for which the law provides, that where the appraisers are satisfied that there has been an undervaluation of 3 or 4 or 5 per cent they will not make the advance, so as to avoid the penalty.

Mr. WAKEMAN. You are talking about the Board of General Appraisers?

Senator JONES, of Arkansas. No, I am talking about your force.

Mr. HARTSHORN. Let me answer the question. The reason why we do not advance as low as 5 per cent is because we feel that we could with difficulty maintain our position.

Senator JONES, of Arkansas. The appraiser was criticising the action before, when they started the undervaluation at 9½ per cent.

Mr. WAKEMAN. I was criticising the action of my officers.

Mr. HARTSHORN. You can not make an advance of 5 per cent stick.

Mr. WAKEMAN. I do not think that is the proper view to take of it.

Mr. HARTSHORN. I do not reflect upon the general board by that statement.

Mr. WAKEMAN. Take a line of goods, and I tell you it is a difficult matter, when it comes down to a question of 5 per cent, to be sure that the other fellow is not right.

Mr. HARTSHORN. That is what I mean.

Senator PLATT, of Connecticut. Then do you think the penalty ought to apply, when the question is so difficult, in the matter of an undervaluation of 1 per cent?

Mr. WAKEMAN. Certainly.

Mr. BREWER. Where it is proved before the general board.

Mr. WAKEMAN. If our appraisement was final that would be another question. They have two appeals from this office on value.

Senator JONES, of Arkansas. I understand you to admit that undervaluations of 5 per cent practically amount to nothing, and yet you think it is wise to keep the penalty for it on the statute book?

Mr. WAKEMAN. Yes, sir; certainly.

Senator PLATT, of Connecticut. Do you advance goods here 1 per cent?

Mr. WAKEMAN. I do not think there is an instance where that has been done.

Mr. SHERWOOD. It happens sometimes in this way: Say a certain line of goods has been appraised and the price established at 91 centimes. If other goods of the same character and value come in at 90, occasionally we advance them to 91 to make the price uniform, that rate having been decided upon.

Senator PLATT, of Connecticut. You decide in your division largely on weight?

Mr. SHERWOOD. Partly so.

Senator PLATT, of Connecticut. When you once establish that it is 91 centimes, if somebody else invoices at 90 for the same goods, you advance them to the rate you have established?

Mr. SHERWOOD. Certainly. In such cases we may make an advance of 1 per cent.

Mr. HARTSHORN. The variation of testimony, as it has been recorded here this morning, will convince you that we can not make a 5 per cent advance stick. If you say 10 per cent before the penalty comes in, and then goods are invoiced, as the appraiser has indicated, at  $9\frac{1}{2}$ ,  $9\frac{3}{4}$  per cent under value, you have no line to commence on. You might as well commence with 1 per cent as with 10.

Senator PLATT, of Connecticut. If goods were invoiced to a great degree at 8,  $8\frac{1}{2}$ , 9,  $9\frac{1}{2}$  per cent less than their real value, it would indicate to you that the importers were deliberately undervaluing them to escape the penalty?

Senator JONES, of Arkansas. It would come pretty near proving it.

Mr. WAKEMAN. That thought I have not expressed, but I fully believe in it. My point was that our examiners always hate to get over the fence. I have a hundred examiners here. They hate to go over the penalty line. You will see the same thought on the 50-per-cent provision when it gets upstairs.

I remember a case where the advances were from 25 to 150 per cent, and on every item under 50 per cent (which means seizure) we were sustained. On every item over 50 per cent, the reappraisal brought it down to 50 per cent.

Mr. SHERWOOD. I agree with what the appraiser has just said, that the drawing of the penalty line at 1 per cent has had the effect of stopping undervaluations. There is no question about it. I wish to state that there is another feature, however. I do not know but that you have thought of it. It has led to a great many goods, which were consigned formerly, being invoiced as purchased goods, so that they might have the advantage of making additions to their invoice, after the goods get here; finding out through the board of general appraisers what certain lines of goods were passed at and adding to the invoice, so as to avoid the penalty.

Senator PLATT, of Connecticut. Do you think it would be a good thing to allow the consignee of goods to make additions to his invoice for the purpose of bringing it up to the market value?

Mr. HARTSHORN. Never.

Mr. WAKEMAN. Personally I have been opposed to that, but there are others in the customs service who believe it should be allowed. Take the case of the honest commission man receiving goods. It sometimes seems severe. Take the other case of the consignees who adopt consignment for the purpose of undervaluation. I have always felt that they should not have the privilege.

Senator PLATT, of Connecticut. Could we make a distinction in the law and have it observed?

Mr. WAKEMAN. I do not see how.

Senator PLATT, of Connecticut. That is, where goods are consigned for sale or to a commission house. Could we make that distinction in the law?

Mr. WAKEMAN. We would have to prove the case.

Mr. SHERWOOD. You might make the distinction between goods sold prior to shipment and those not sold but sent to this market to be sold.

Mr. WAKEMAN. That is a good suggestion.

Mr. WANMAKER. Take the question of hides from South America.

Senator PLATT, of Connecticut. We had all that before us when we were here before.

Mr. WANMAKER. All those goods come here under consignment, and they have been coming for years. It is very hard sometimes to get the actual market value on account of the large fluctuations in the currency there. It will fluctuate as much as 15 to 18 per cent between sunrise and sunset.

Senator PLATT, of Connecticut. If the goods are sent to a regular commission house here for sale, the party to whom they have been sent has no interest in the matter one way or the other.

Mr. WANMAKER. Absolutely none in this particular line of goods, I know. The established custom of doing business from South American ports with the port of New York is by consignment, through commission. The business is all handled by commission merchants. It seems to me that in that case there should be a division between the legitimate commission merchant and the man consigning to himself. If there could be some division there, then there should be. They should have the same privilege.

Senator PLATT, of Connecticut. There would be no objection to allowing the legitimate commission merchant to add to his invoice.

Mr. WANMAKER. We all know that probably four-fifths of the business of the country is to-day done on the commission basis.

Senator PLATT, of Connecticut. The purchaser of goods has that privilege upon the theory that he may have bought the goods some time before exportation, and that they may have advanced in value. He has to pay duty on the market value, and therefore he should have the privilege of making the addition. The theory also is that the man who consigns goods to his agent, which have been sold in this country, knows in the country of exportation what the market value of the goods is.

Mr. CARHART. That is the theory.

Senator JONES, of Arkansas. Mr. Hartshorn took the position that that ought not to be allowed to the consignors at all. Would not there be injustice in a case like this: Suppose a man living abroad, having bought goods, held them for some time and they increased in value, and he wanted to ship them to the United States; ought he not to be allowed to increase his entry?

Mr. WAKEMAN. He is now; he is a purchaser.

Mr. HARTSHORN. My answer to the question is that when he ships those goods to himself, consigning from himself to himself, at the date of shipment he knows absolutely what the market price is, and therefore he should not be allowed to add to the market value.

Senator JONES, of Arkansas. But, as I understand, the law requires him to send the invoice.

Mr. HARTSHORN. The goods are consigned to himself. I will tell you the consequence of allowing the consignor to add to his invoice to make market value. Mr. Wanmaker is always right in all his positions, but he stands one to nine against the ten assistants. He is the only assistant who thinks it should be changed, and he thinks it should be changed with reference to one line of business.

Mr. WANMAKER. Not to every line of business, but to the South American countries. It would apply to almost everything coming from the South American republics.

Senator JONES, of Arkansas. Do you not believe his position is correct on that particular article?

Mr. HARTSHORN. I should say that he is right, because I have great confidence in his judgment; but to cover that point I would put a special paragraph in the law which would not let this matter extend to general consignments of merchandise the world over, and for this reason: Senator Platt points out that a real consignor should be allowed to do so as against a fake consignor. Let me tell you that every manufacturer in Europe can hire a man at \$15 a week and desk room for him at \$10 a month, and buy a sign for \$2.50, and open a full-fledged, first-class commission house in this city, and consign all his goods to himself or his agent.

That is just the way the Government has been cheated out of immense revenue from the consular district of St. Gall. The goods have all been sold to American purchasers, or practically all, and instead of being shipped to the purchaser at the purchase price they have been consigned to these fake commission houses—which are the real manufacturers themselves, represented by their agents—at half what the goods are sold at, and the Government has been cheated out of twice as much as the appraiser estimates. He says \$800,000 a year. I say \$1,600,000 a year for the last ten years just by that system. It will never do to allow the consignor to add to the invoice.

Mr. SHERWOOD. In my division the bulk of the consignments come directly from the manufacturers, and the manufacturers should certainly know the market value at the time of shipment, whereas the purchaser may not. He may be here. He may have purchased the goods two or three months before shipment. In the meantime the market may have varied. Therefore he should have the privilege of adding to his invoice. The manufacturer certainly knows the market value at the date of the shipment, if anyone does, and, so far as my division is concerned, the bulk of the consignments are from manufacturers.

Mr. WAKEMAN. Senator Platt, I have had reports from my different divisions in answer to the suggestions you made, and if it is your pleasure I will submit the reports and let them become a part of the record.

Senator PLATT, of Connecticut. They will be printed as a part of the record. Let the questions which form the basis of the replies be inserted in the record also.

The questions referred to are as follows:

“First. Any suggestions whereby the customs administrative act

may be improved so as to facilitate business convenience and the proper administration of duties?

"Second. What proportion of entries have dutiable values advanced over the invoice prices?

"Third. In what proportion of cases where the dutiable value has been increased is it probable that an effort has been deliberately made by the importer to undervalue his goods?

"Fourth. To what extent is it probable that undervaluations, either through error, inadvertence, or intent, are discovered by the appraisers?

"Fifth. Are undervaluations more frequent in case of goods purchased abroad, or in case of consigned goods?

"Sixth. In which class of goods is there the greater difficulty in determining the market value?

"Seventh. How does the ten-day bond operate?

"Eighth. Is there a uniform appraisement of values in the different ports of the United States?

"Ninth. Would it interfere with the proper collection of duties if the consignee or agent were allowed, at the time of entry, to make additions to the invoice value?

"Tenth. Is it essential that the duty shall not be assessed upon a less valuation than that of the invoice?"

The communications referred to are as follows:

#### **STATEMENT OF GEORGE W. WANMAKER.**

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

UNITED STATES APPRAISER,  
*Port of New York.*

SIR: In answer to your request that I submit suggestions in reply to certain propositions or questions contained in your letter dated November 17, 1898, I would make report as follows:

Under the new tariff one of the principal articles of merchandise passed upon by this division was placed on the dutiable list at an ad valorem rate of duty. This article (I refer to cattle hides, a raw product, for many years prior to the present tariff subject to no duty whatsoever) has kept this division busy detecting and preventing undervaluations, whether intentional or otherwise. It has been a matter of extreme difficulty to reconcile discrepancies arising in the foreign market values, and at times impossible for this department to prove the fact of an undervaluation, where all evidence pointed to the fact of a palpable undervaluation of the merchandise.

It is my opinion, based upon experience (during the past sixteen months) with above class of merchandise, that undervaluations, whether intentional or otherwise, are in almost every instance detected by the appraising officer. That a very small percentage of the entries, probably less than 5 per cent, have their dutiable values advanced over their invoice prices, and that of those by far the greater proportion occur in cases of consigned goods. With reference to the question of intentional undervaluation, it is my firm conviction that, as regards consigned goods, in no case is an undervaluation intentional. In most cases it is a result of gross ignorance and carelessness, which no amount of costly experience seems to affect. With reference to the

cases of undervaluation detected in purchased goods, the chances are that in a small percentage an effort has been deliberately made by the importer to undervalue his goods. Purchased goods of the class of merchandise mentioned are sold at a margin of profit of about  $1\frac{1}{2}$  to  $2\frac{1}{2}$  per cent. So that even a slight undervaluation might be attempted, and probably is in a few cases, not with the end in view to save duty, but rather to enable a ready sale of the merchandise below the prices demanded by the trade generally. With reference to consigned goods, it might be said that the shipper has no interest whatsoever in undervaluing his goods, as in 90 per cent of the cases the merchandise is placed in a bonded warehouse and sold in bond. So that the shipper would be absolutely indifferent as to the amount of duty collected upon his importation.

The market value of purchased goods is determined, as I have experienced, very readily by the aid of market and consular reports, while the greatest difficulty has been encountered in determining the market value of consigned goods. In fact, with reference to consignments of cattle hides from Central and South American points, it has been noted that all importations from many important points are consigned, and none purchased. The consignor places an approximate cost value on his invoice, and in no case is it possible to ascertain a market value, as no market value can be said in fact to exist.

My attention has been often directed to the fact that certain classes of merchandise passed by my division at a certain valuation is being passed at other ports at a far less appraised value, and remonstrances made accordingly.

A uniform appraisement could be brought about by an interchange of information, as is now being done in the case of raw sugar.

It has been always my contention that the consignee or agent be allowed at the time of entry to make necessary additions to the invoice value. In fact, I hold that he should not only be allowed, but actually should be compelled to add in necessary cases, and in case of his default that the usual penalties be then assessed. I hold that in importations of consigned dutiable merchandise the average amount of money remitted by the consignee to the consignor as the net result of the importation, after all expenses and charges have been paid, should be regarded as the dutiable value of the merchandise. Take, in point, the question of the market value of hides from the United States of Colombia. Up to quite recently all hides from points in the United States of Colombia were consigned at a value of about 6 cents, United States money, per pound.

This department ascertained that in no case was the sum remitted by the consignee as the net result of any given importation less than 11 cents, United States money, per pound. It was therefore reasonable to suppose, in default of an actual market value, that no consignee would sell his goods outright to a purchaser at a less sum than was being constantly remitted to him. So that you could not have purchased the Colombia hides from the consignors at less than  $10\frac{1}{2}$  cents, United States money, per pound. And this department then insisted on an invoice price of at least that figure. A consignor invoices his goods at an average figure (in relation to hides), and I hold that this is not the correct dutiable value of the merchandise and that the consignee be required to add to this value a sum which would make the dutiable value of the invoice equal to the average amount remitted in cases of similar importations. This is always presupposing that there is no ascertainable foreign market value.

It is certainly essential that duty should not be assessed upon a less valuation than that of the invoice, and my remarks concerning this will apply as well to the first proposition enumerated in your letter.

As regards the value of the currency at which a given invoice is entered, this is often in doubt, and I have been reliably informed that in some cases invoices are appraised by this department taking the currency at one valuation, and is liquidated, the currency being calculated at a different valuation. Some regulation should alter this immediately. This question does not arise where the invoice is made out in coin currency, the equivalent United States value of which is noted in the mint reports. But it does arise as regards invoices from United States of Colombia, Brazil, China, India, and Central American points, where paper currency is in vogue, which changes, one might say, with the rising and setting of the sun.

The entry stamp, it seems to me, should include not only the invoice value in foreign currency, but also its equivalent United States amount, as given either by consular certificate or oath of purchaser or consignee.

The question of the weight of an invoice has also given rise to many interesting problems. The invoice value as entered being ascertained to cover the value of the merchandise, the invoice is passed as correct. The invoice is liquidated upon the return made by the United States weigher, differing more or less from invoice weight and in many cases as a result the importer pays duty on less than the entered value, while in fact the value as entered is the actual and true value which he has paid for the merchandise, and which should be taken as the basis for the assessment of duty.

A statute requiring the assessment of duty upon not less than the invoice value would remedy the above.

Very respectfully, yours,

GEO. W. WANMAKER,  
*Assistant Appraiser, First Division.*

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### STATEMENT OF J. H. BREWER.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

Hon. W. F. WAKEMAN, *Appraiser.*

SIR: In reply to your communication of this date, calling for suggestions whereby the customs administrative act might be improved, I have the honor to submit my views herewith.

The best feature of the administrative act is section 7, as amended by section 32 of the act of July 24, 1897, providing for an additional duty of 1 per cent for each 1 per cent that the appraised value exceeds the entered value, for it has stopped, in a most remarkable way, all the small, persistent undervaluations which flourished under the old law and which in the aggregate amounted to vastly more than the few large and sensational ones discovered by the appraising officers from time to time.

Formerly, when the penal duty did not accrue on advances under 10 per cent, it was entirely safe for an importer to undervalue his imports about 10 or 15 per cent; for, if the examiner discovered it and made an advance, the general appraisers almost always reduced it

below the penalty point. In fact, many examiners seemed to temper justice with mercy themselves, and tried to keep the advances below the fatal 10 per cent.

Now all this is changed. The importers, who know their business and understand the method of appraising goods at this port, are very careful to either invoice their goods at market value or make the necessary additions on entry, so that the records show a great falling off of advances made by the examiners. In some lines there are substantially none at all, apparently.

(2) About 10 or 15 per cent of the invoices are advanced in value by the importers or the appraiser.

(3) I think that a very small fraction of the undervaluations now are deliberate attempts to defraud the revenue, most of them resulting from close buying or exceptional facilities.

(4) I believe that a majority of undervaluations are discovered by the appraisers. If there were more examiners in my division more advances would probably be made.

(5) Undervaluations are probably more frequent in cases of consigned goods.

(7) The ten-day bond does not operate at all, for experience has shown that the importers ignore it entirely, and no attempts seem to be made for its enforcement. Most of the large importers are in the habit of delivering their goods direct from the ship's dock to the various transportation companies, and it is generally impossible to get any of the cases back to public store if wanted for examination.

(8) There is certainly no uniform appraisement of values in the different ports of the United States, and it would almost seem as if the importance of the appraisement, the very foundation of an ad valorem tariff, was not appreciated at its true value. At only a few of the ports are there any expert forces of appraising officers, and at some of the ports, if not most of them, the appraising is a mere matter of form, and consists of determining the proper rate of duty to be assessed on the invoice value.

(9) I think that the importers of consigned goods should be allowed to make additions on entry, the same as the importers of purchased goods.

(10) Duty should not be assessed upon a less valuation than that of the invoice. Importers may be depended upon to keep the values as low as possible.

Respectfully yours,

J. H. BREWER,  
*Assistant Appraiser, Second Division.*

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#### STATEMENT OF WARNER SHERWOOD.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

Hon. W. F. WAKEMAN, *United States Appraiser.*

SIR: Referring to your letter of the 17th instant, informing me that the subcommittee of the United States Senate committee is now considering amendments to the administrative act and asking for reply to various questions in regard thereto, I would say:

(2) The annexed statement shows the proportion for the last six months to be 5.8 per cent.

(3) In nearly all instances where values have been increased the undervaluation was intentional, especially on consignments, as the consignor is generally a manufacturer, and therefore must know the market value.

(4) We try to discover all, but do not think it possible to answer the question definitely.

(5) Far more frequent in case of consignments.

(6) On consigned goods, for which we receive no invoices of purchased goods for comparison, and of such a character that an analysis would not determine market value.

(7) In most instances, when we request collector to send additional cases to public store, we are notified by importer that the goods have already gone into consumption.

(8) I am unable to answer.

(9) I see no reason for allowing consignee or agent to add to entry, for the reason that consignors are generally manufacturers, and therefore must be familiar with values at place and time of shipment.

(10) I would say that duty on purchased goods should be assessed on value at date of shipment, same as on consigned goods.

Respectfully, yours,

WARNER SHERWOOD,  
*Assistant Appraiser, Third Division.*

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OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

*Report of third division of invoices passed and advanced from May 1 to October 31, 1898.*

|                                    |        |
|------------------------------------|--------|
| Invoices passed.....               | 11,717 |
| Invoices advanced.....             | 680    |
| Proportion advanced, 5.8 per cent. |        |

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**STATEMENT OF E. A. HARTSHORN.**

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

Hon. W. F. WAKEMAN, *United States Appraiser.*

SIR: In reply to yours of November 17, requesting me to submit immediately any suggestions in reply to the following propositions or questions, I beg to state:

(1) With very few exceptions, the customs-administration act can not be materially improved by amendments. The inconvenience and delay attendant upon the proper administration of the present act results from an effort to stop undervaluations which might be attempted under the enforcement of any administration act.

(2) I can not immediately state the proportion of entries where dutiable values have been advanced by this division over the invoice prices. To state the matter with any degree of correctness would involve considerable time.

(3) I can state that in almost every instance where the dutiable value has been increased an effort has been deliberately made by the importer to undervalue his goods.

(4) The appraisers are sure to discover a proportion of the undervaluations of the goods appraised, but, from the fact that only a tenth or thereabouts of the merchandise comes to public store for examination, it would be impossible for the appraising officers to discover all the undervaluations, whether through error or intent on the part of the importer.

(5) Undervaluations are most frequent where goods are consigned.

(6) If the merchandise actually sold for importations was invariably shipped and invoiced to the purchaser of the merchandise, there would be very little difficulty in determining the market value in the principal markets of the country from which the goods are exported, and the consignment of similar goods could not be appraised at less than their market value, which would easily be determined by the actual sale of the purchased goods.

(7) The practical operation of the ten-day bond is unsatisfactory. Whether this is the fault of administering the law, or the law itself, may be a question. However, it is a fact that when we order in additional cases after examining the tenth case, the importers are hardly ever able to produce the goods, and are only in a position to furnish verified samples.

(8) I think the appraisements of value in the different ports of the United States are fairly uniform, but am not in a position to assert that there is not room for improvement in this direction.

(9) It would be unwise to change the present law so as to allow the consignee or agent of consigned goods to make additions to invoice value. There is no possible reason why this change should be made, as the shipper of merchandise from foreign ports knows the true market value of the merchandise, and he should invoice the same accordingly, and should not, therefore, be allowed to add to make market value. If this privilege was extended to the consignors of merchandise, it would be a cause of constant undervaluation.

(10) It is essential that the duty shall not be assessed upon a less value than that of invoice. If the invoice value could be reduced by the appraising officer or collector, the allegation that the market value had declined since the goods were purchased would be universal and constant undervaluation would be attempted by giving false dates of the original purchase of the goods.

I recommend that the administrative act be so changed that there shall be no future contention that the collector of the port shall be the sole person to determine for the Government whether an appraisement or reappraisement is correct. This power should not be lodged in the collector of the port excepting the collector's action shall be confirmed by the Secretary of the Treasury.

Very respectfully,

E. A. HARTSHORN,  
*Assistant Appraiser, Fourth Division.*

#### STATEMENT OF L. B. CARHART.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

Hon. W. F. WAKEMAN, *United States Appraiser.*

SIR: In reply to your favor of the 17th instant, I have the honor to submit the following answers:

(1) I suggest that an amendment to section 3 shall be made requir-

ing that before approval by the consul, etc., all invoices shall contain a full and detailed description, and a statement of the quantity of each article named in said invoices. This, with the enforcement of section 9, will help greatly in the application of this tariff law.

(2) About 1 per cent.

(3) There are such cases, I have reason to believe; but the proportion is, I think, but small.

(4) So far as the present system of examination permits (10 per cent of cases examined), I think nearly all the undervaluations are discovered and corrected. I think that more cases should be ordered to public store for examination, and that an extension in this direction would be a benefit to the revenue.

(5) Almost exclusively in the cases of consigned goods.

(6) There is no material difference.

(7) If the ten-day bond was made effective it would be of great benefit to our work, but it has been heretofore absolutely useless. It is vitally important for the work of this office that goods shall be held within our reach until the invoice is returned. The ten days beyond that time seems to me needless oppression.

(8) I think this is the aim of all appraising officers, and believe that much has been done to accomplish that result, but of course I can not know how far we have been successful. I think the conference meetings of the local appraisers has conduced to this end.

(9) I think the present system is the best for consigned goods.

(10) It is not. The appraiser should be, as now, free to report the actual market value, "any invoice or other paper to the contrary notwithstanding."

Very respectfully,

L. B. CARHART,  
*Assistant Appraiser Fifth Division.*

#### STATEMENT OF J. P. SKILLMAN.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 17, 1898.*

Hon. W. F. WAKEMAN, United States appraiser.

SIR: Referring to your communication of November 17, asking for such suggestions as we might wish to make upon the customs administrative act, I submit the following:

First. I would call your attention to the difficulty arising upon the appraisement of merchandise represented by so-called "blanket invoices." By "blanket invoice" I mean an invoice describing several entirely different and dissimilar line of goods, upon the examination of which it is impossible to obtain actual inspection of the merchandise. Of late several instances have occurred to emphasize, in my mind, the evil effects of this class of invoices.

I do not believe that the Department or Congress, in speaking of 10 per cent of an invoice, ever intended this 10 per cent to be applied to invoices covering different and dissimilar merchandise, because it frequently occurs that not 1 per cent of each class of goods comes to public store for examination, though 10 per cent of the entire invoice is ordered to public store, the main portion of the invoice being therefore practically passed without any examination whatever, and with no verification of the contents of the cases.

I therefore suggest, upon this point, that consuls before whom invoices are produced shall insist that separate invoices shall be made up for each different and dissimilar line of merchandise. The Government would thereby gain an additional consul fee, and the examination of the goods here would be greatly facilitated if this action was taken.

As to the proportion of entries having dutiable values which are advanced over the invoice prices, I can only state that a glance at the books of the sixth division shows advances ranging from 10 to 40 per cent in the different lines of goods passed in the sixth division, woolens, dress goods, etc.

As to the proportion of cases where the dutiable value has been increased and a deliberate effort made by the importer to undervalue his goods, it is impossible for me to express an opinion. It is sufficient to say that from 10 to 40 per cent of the invoices are undervalued and advanced by this office.

It is my experience and the experience of the experts in this division that undervaluations most frequently occur in consigned goods; the consignor having an interest in the sale of these goods here probably affecting this class of undervaluations. There is very little difference in the work and care necessary in detecting undervaluations in either consigned or purchased goods, it perhaps being easier to arrive at the true market values in case of purchased goods by reason of the standing and reputation of certain firms and manufacturers against whom no taint of intention to defraud could be assumed.

You ask, "How does the 'ten-day bond' operate?" The "ten-day bond" does not operate; the importers operate the "ten-day bond." If an invoice is twenty-four hours old we never succeed in getting cases ordered to public store by the appraiser intact. We are always met with the statement that the goods have gone into consumption, and the importer can only furnish samples. If the goods were deliberately undervalued, a sample verified by the importer is of no use to us whatever, as a false affidavit is a small matter beside false valuation. It is the experience of this office that affidavits are too easily made in connection with cases ordered to public store by the appraiser. Our only recourse is to ask the collector to order all the goods of an importer to public store when we detect an attempt to defraud.

It is impossible for me to express an opinion as to whether there is a uniform appraisement of values at the different ports of the United States.

You ask "if it would interfere with the proper collection of duties if the consignee or agent were allowed at time of entry to make additions to invoice value." Yes and no. The amount of duty collected from "1 per cent of penalty for every 1 per cent of advance" would be lost to the Government should the agent or consignee of consigned goods be allowed to add upon entry to make market value. Otherwise, it seems to me that there is no difference between an addition made by a purchaser upon entry and a consignee.

You ask "if it is essential that the duty shall not be assessed upon a less valuation than that of the invoice?" On the contrary, it is my conviction that the importer should only pay duty upon the true market value of the goods at the date of shipment at the port of shipment, whether it be above the purchase price or below.

Under the present law the Government exacts extra duty and penalties if the importer does not add to make market value when the goods have advanced in value after purchase; but it makes no allow-

ance whatever for the loss sustained by the importer when the goods have depreciated in value since the day of purchase and before the day of shipment. This appears to me manifestly unjust. Much could be said in reply to your first inquiry as to the customs administrative act, but I am not prepared to offer many suggestions that would better that act, but would rather insist that the act be enforced. Certain sections of the customs administrative act, notably sections 3 and 8, if enforced, would place in the hands of the customs officials such data as would enable them to easily arrive at the proper market value of the goods. In the great quantity of merchandise imported through the sixth division I know of but two instances—one of purchased and one of consigned goods—in which these two sections are complied with, and absolutely no difficulty is experienced by me in getting at the true market value in these two instances.

In conclusion, I would add that not enough attention is bestowed by the entry clerk in the custom-house upon invoices, the result being that we do not get cases representing the different lines of dress goods. An invoice containing cases of wool dress goods and cases of cotton dress goods reaches the entry clerk, and he orders to public store one case of cotton dress goods, 10 per cent, it is true, of the invoice, but giving us no case of wool dress goods for examination, and vice versa. Again, as to the amount of undervaluation in purchased and consigned goods, I would add that we have very little difficulty with purchased goods, and as to the injustice done an honest importer by reason of duty being assessed upon the invoice value when the appraised true market value is less than the invoice value, I am satisfied that the present manner of assessing duty upon these invoices produces a strong incentive to consignors to undervalue their goods, they being able to consign them at their own prices upon the day of shipment and not being compelled to make any oath as to the purchase price thereof.

Respectfully, yours,

J. P. SKILLMAN,  
*Assistant Appraiser, Sixth Division.*

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### STATEMENT OF ALEXANDER HAMILL.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

Hon. W. F. WAKEMAN, *United States Appraiser.*

SIR: In reply to your communication dated the 17th instant, I beg to submit the following suggestions, in answer to your questions submitted, as follows:

(1) I think an allowance of a margin of perhaps 5 per cent before the penalty shall accrue, in making additions to merchandise, would be just and facilitate arriving at proper values, for the reason that it is a difficult matter to get rival importers to appraise values of some kinds of merchandise on account of the penalty being applied if advances are made at once, and there are variations in values of purchased merchandise of a similar kind made by different importers where goods are subject to a fluctuation of at least 5 per cent at any time.

(2) About 7 per cent of the entries in the seventh division are advanced at the present time.

(3) Very few, if any, cases of undervaluation are deliberately made on goods passed in the seventh division. It is a difficult matter to prove the intent of the importer in entering values of merchandise.

(4) Nearly all of the undervaluations which are made through error, inadvertance, or intent are discovered by the appraising officers.

(5) Undervaluations are most frequent in cases where the importers control the agency for the article or have exclusive sale of certain products.

(6) The greatest difficulty is experienced in arriving at the proper market values of goods which are controlled by combinations of manufacturers and by manufacturers of specialties, where they fully control price of the product.

(7) I have never seen the "ten-day bond" enforced.

(8) Uniform appraisement of values does not prevail in the different ports of the United States.

(9) If the consignee or agent were permitted to make additions to invoice values at the time of entry, it would not interfere with the proper collections of duties, and would save an immense amount of work in the appraiser's department.

(10) It is essential, in the opinion of this department, that the duty should be assessed upon the valuation of merchandise as made, per the invoice.

Respectfully, yours,

ALEX. HAMILL,  
*Assistant Appraiser, Seventh Division.*

#### STATEMENT OF MICHAEL NATHAN.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

Hon. W. F. WAKEMAN, *Appraiser.*

SIR : In response to your communication of the 17th instant calling for suggestions to certain questions propounded by the subcommittee of the United States Senate committee, in view to certain amendments of the administrative act, I would respectfully make the following suggestions to the questions enumerated therein, as follows:

(1) I would suggest that the penalty should not be assessed except on goods advanced in value over 5 per cent.

(2) Since the new tariff took effect the proportion of entries in the eighth division, where the dutiable value has been advanced over invoice prices, the percentage has been 2 per cent on leather invoices, and 2 per cent on glass invoices; sugar, none.

(3) Only a small percentage has been deliberately undervalued.

(4) Mostly all undervaluations are discovered by the appraising officers.

(5) Undervaluations are more frequent on consigned goods.

(6) On novelties and fancy articles, fancy chocolates, glove leather consigned to firms who act as the sole agents in this country for the foreign manufacturers.

(7) I have no knowledge as to the operation of the ten-day bond.

(8) There is not a uniform appraisement of value in the different ports of the United States.

(9) I am of the opinion that it would not interfere with the proper

collection of duties if agents or consignees were allowed to make addition to make market value.

(10) It is essential that duties should not be assessed on a valuation less than that of the invoice.

Respectfully, yours,

MICHAEL NATHAN,  
*Assistant Appraiser, Eighth Division.*

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### STATEMENT OF H. T. ANDREWS.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

Hon. W. F. WAKEMAN, *United States Appraiser.*

SIR: Referring to your letter of November 17, 1898, requesting a reply to certain questions or propositions submitted, for the use of the subcommittee of the Senate Finance Committee, I have to answer as follows:

(1) Sections 11 and 19 should be combined into one section. The law should be more specific as to when and how the provisions of section 11 shall be applied. Section 11 should be an alternative provision of section 19. It seems that some importers construe section 11 as permitting a consignor to import for his own account at values less than he will sell the same or similar goods; and that section 19 applies only to goods actually sold.

(2) About  $3\frac{1}{2}$  per cent.

(3) Difficult to answer directly. Practically, all undervaluations are deliberately made, either through a fraudulent intent or through a misconstruction of the law.

(4) Practically all.

(5) Undervaluations are more frequent in the case of consigned goods.

(6) Those having a demand only during a fixed or an imaginary season.

(7) It would seem that this question could be best answered by the collector.

(8) The Board of General Appraisers might answer. This office has no information on the subject.

(9) No.

(10) All duties should be assessed upon the valuations as found by the appraiser, irrespective of the entered or invoice valuations.

Respectfully, yours,

H. T. ANDREWS,  
*Assistant Appraiser, Ninth Division.*

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### STATEMENT OF T. C. WORDIN.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 21, 1898.*

Hon. W. F. WAKEMAN, *United States Appraiser.*

SIR: Respectfully referring to your letter of the 17th instant, in which I am requested to make reply to certain propositions stated under numbers 1 to 10, inclusive, said propositions having reference

to possible amendments to the act of June 10, 1890, known as the customs administrative act, I have the honor to reply as follows:

(1) I respectfully urge the enforcement of section 9 of this act, which has hitherto been ignored. The action of this office on September 8, 1897, first called into use the provisions of this section. We have now secured in the United States circuit court a decision which justifies the application of the forfeiture to all packages which are represented by the importer to be subject to a lower rate of duty or to a less amount of duty than is warranted by the facts. Such representation may be written or oral and may be included as a part of the invoice or on a separate paper, and it may be fraudulent or merely false. If enforced this will prove to be a powerful weapon in the hands of the Government for the securing of accurate and honest invoicing.

(2) The proportion of entries which have dutiable values advanced in this division is exceedingly small in nearly all lines, probably from 1 to 2 per cent, excepting invoices of plants and bulbs, of which we advance from 5 to 10 per cent. In this connection it might be proper to add that in the classification of leaf tobacco we advance something over 50 per cent of invoices received, making the rate \$1.85 per pound as against an entered rate of 35 cents per pound, the advance amounting to \$1.50 per pound. This, however, is an advance of classification, and not an advance of value.

(3) The cases of deliberate undervaluation, where the evidence is convincing, are exceedingly small in number. It would be a difficult matter to ascertain or to state the number. With our invoices of plants, where excess of goods are found, it is our opinion that this in many cases is done with intent to defraud.

(4) The examiners report that in their opinion all undervaluations are discovered. The assistant appraiser believes the number undiscovered to be small, but arrives at this opinion from general conclusions based upon the thoroughness and integrity of the men attached to this division, whose honesty and efficiency he rates high. It would be impossible to give any estimate based on actual facts.

(5) Undervaluations are most frequent in the case of consigned groceries and purchased plants.

A large proportion of goods assigned to this division are assessed at specific rates of duty, and therefore in such cases no incentive to undervalue goods exists.

(6) The greatest difficulty in determining market values is in fruits, vegetables, and other articles which depend largely upon the crop from year to year; also on merchandise manufactured from fruits and vegetables.

(7) The operation of the ten-day bond is unsatisfactory in most cases.

(8) Lack of information precludes the possibility of an intelligent answer as to uniformity of appraisement in the various ports of the United States. This is a matter of vital importance, and it is respectfully urged that the Department be urged to devote more attention to this subject.

(9) It is the opinion of this office that business would be facilitated if the consignee or agent should be allowed to make additions to the invoice at the time of entry, provided that the market value at the time of exportation be made the basis of the appraisement, as is now done.

(10) It is the opinion of this office that the appraisement should be based upon the actual market value on the day of shipment. The rule now in force penalizes ignorance, for in case of excessive valuation it is manifest either that an error has been made or that ignorance of the actual market value has led to such entry as is clearly not designed to defraud the Government of its just dues.

Respectfully submitted.

T. C. WORDIN,  
*Assistant Appraiser, Tenth Division.*

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### STATEMENT OF R. W. MOORE.

OFFICE OF THE APPRAISER OF MERCHANDISE,  
*Port of New York, N. Y., November 18, 1898.*

HON. W. F. WAKEMAN, *United States Appraiser.*

SIR: Referring to the ten questions or propositions submitted by you on November 17, I have to answer as follows:

I would state that the answers to many of the questions are based upon my seven years' experience as examiner of chemicals in the seventh division.

(1) In relation to the provision of the administrative act which imposes a double duty upon each per cent of advance over the invoice value, it is my opinion that a margin of 5 per cent might be properly allowed, and an advance up to this point permitted without additional duty accruing. In practice it is not found that values on the same goods are absolutely uniform when purchased by different houses, and that a variation to the above extent, but not beyond, is frequently encountered. The collection of the additional duty or the advance of 1 per cent only is so much in the nature of a hardship that it is my opinion that many appraising officers would make an advance of this nature with reluctance.

(2) The proportion of entries advanced over entry values is a matter of record and can be ascertained by reference to the books in the appraiser's department.

(3) My experience has been that it is very seldom that an importer deliberately tries to undervalue his goods with intention of defrauding the revenue. Owing to differences of opinion between the appraising officers and the importer as to actual market value at time of exportation, many advances are made, but in a majority of instances the importer honestly believes that the price paid by him for his goods is the correct market value.

(4) Undervaluations through error, inadvertence, or intent are discovered by the appraising officers in almost every instance. I think it fair to state that undervaluations through error and inadvertence are often called to the attention of the appraising officers by the importer of the goods before the goods are examined.

(5) Undervaluations are as frequent in case of purchased goods as in the case of consigned goods. They are most frequent in the case of goods imported solely by one importer.

(6) The greatest difficulty in determining market value is experienced in appraising novel and special goods and those exclusively controlled by one importing house.

(7) I have no information on this point.

(8) Highly desirable as a uniform appraisement of values in the different ports of the United States would be, it is my impression that such a state of affairs does not exist.

(9) The addition to value at time of entry on the part of the consignee or agent would not, in my opinion, interfere with the proper collection of duties in the case of consigned goods, but permission to make such addition would, in many cases, add to the amount of revenue collected.

(10) It is essential that duty shall not be assessed upon a less valuation than that of invoice except in cases of manifest clerical error.

It would, in my opinion, facilitate the disposition of cases before the Board of General Appraisers if, in cases where a change in classification is based upon a chemist's report, a full copy of the report, as obtained from the United States Laboratory, was forwarded with the answer to the protest, together with all marks, numbers, including laboratory number, which lead to the identification of the sample and shipment.

Very respectfully,

R. W. MOORE,  
*Chemist in Charge, United States Laboratory.*

#### STATEMENT OF G. F. CROSS.

Senator PLATT, of Connecticut. What position do you occupy in reference to the matter of collecting duties; what is your official position?

Mr. CROSS. I am a special agent of the Treasury Department.

Senator PLATT, of Connecticut. Are you chief of the special agents?

Mr. CROSS. I am in charge of what is called the second special agency district. That takes in Bridgeport, New Haven, Hartford, Albany, Perth Amboy, Newark, and some subports.

Senator PLATT, of Connecticut. And New York?

Mr. CROSS. And the city of New York.

Senator PLATT, of Connecticut. How long have you been a special agent of the Treasury Department.

Mr. CROSS. I have been a special agent of the Treasury Department about nine years.

Senator PLATT, of Connecticut. Have you been all of the time in the same position you hold now?

Mr. CROSS. No, sir. I was special inspector at one time, before being promoted to the special agency. I was stationed first in Pittsburgh. From there I was ordered to Sault Ste. Marie to help establish across the international bridge there the customs business. From Sault Ste. Marie I was ordered to Cincinnati; from Cincinnati again to Pittsburgh, and from Pittsburgh to New York.

Senator PLATT, of Connecticut. What are your duties here?

Mr. CROSS. I have charge of the agents, special employees, and special inspectors assigned to duties in this district. Our duties embrace very nearly everything connected with the customs service, including the conduct of officers. We frequently have to make examinations of the customs officers in this district; all questions referred to us by the Department. Authority to expend money is asked for, and such requests are referred to us to investigate and report and make recommendations.

Senator JONES, of Arkansas. To whom do you report?

Mr. CROSS. The Secretary of the Treasury always.

Senator PLATT, of Connecticut. You are not under the collector?

Mr. CROSS. No, sir.

Senator PLATT, of Connecticut. You are immediately under the Treasury Department?

Mr. CROSS. Yes, sir. Our immediate officer is the Assistant Secretary of the Treasury, in charge of customs.

Senator PLATT, of Connecticut. Do you consider it a part of your duty to detect frauds upon the revenue?

Mr. CROSS. Always.

Senator PLATT, of Connecticut. And, in addition to that, have you general supervision of the business of the port?

Mr. CROSS. It is a general supervision to the extent of wherever we discover any failure upon the part of customs officers to conform to the regulations and forms established by the Department to report the same to the Department.

Senator JONES, of Arkansas. You have no power to correct the action of an officer?

Mr. CROSS. We have no power to correct the action of an officer.

Senator PLATT, of Connecticut. If there is anything going on that ought not to be indulged in, you are expected to find it out and report it?

Mr. CROSS. Yes, sir; and frequently where a charge is made by one officer against another, which goes to the Department, it is sent to us for investigation and frequently for us to make recommendation.

Senator PLATT, of Connecticut. Have you or not become familiar with the whole business of collecting duties on imported goods?

Mr. CROSS. We have to become familiar with the methods, so far as they are known. Up to the present time the ascertainment of the foreign value of goods is difficult in many instances.

Senator PLATT, of Connecticut. Practically, you know what is going on in all the divisions of the service here?

Mr. CROSS. It is our business to know, so far as we are able.

Senator PLATT, of Connecticut. Do you think of any improvement that could be made in what is called the customs administrative law or the administrative features of the customs laws?

Mr. CROSS. Here is a letter which I wrote. I did not know that you would want to examine me. I will read it to you, and perhaps you will desire to ask me some questions in regard to it. The letter is as follows:

OFFICE OF THE COLLECTOR OF CUSTOMS,  
*Port of New York, November 22, 1898.*

Hons. O. H. PLATT, J. K. JONES, and NELSON W. ALDRICH,  
*Subcommittee of the United States Senate Finance Committee.*

SENATORS: In conformity with the request of the Hon. Mr. Platt, for me to answer certain questions which he submitted, as follows:

(1) Any suggestions whereby the customs-administrative act might be improved so as to facilitate business convenience and the proper administration of duties?

(2) What proportion of entries have dutiable values advanced over the invoice prices?

(3) In what proportion of cases where the dutiable value has been increased is it probable that an effort has been deliberately made by the importer to undervalue his goods?

(4) To what extent is it probable that undervaluations, either through error, inadvertence, or intent, are discovered by the appraisers?

(5) Are undervaluations most frequent in case of goods purchased abroad, or in case of consigned goods?

(6) In which class of goods is there the greatest difficulty in determining the market value?

(7) How does the ten-day bond operate?

(8) Is there a uniform appraisement of values in the different ports of the United States?

(9) Would it interfere with the proper collection of duties if the consignee or agent were allowed, at the time of entry, to make additions to the invoice value?

I have the honor to inform you that I have no suggestions to make concerning the improvement of the customs-administrative act.

In answer to the third question, I have to state that from July 1, 1897, to June 30, 1898, the number of entries liquidated, subject to ad valorem duty, were 106,700. Out of this number 10,209 of the invoices were advanced. This does not include the entries made of merchandise free or specifically provided for.

The additional duties accruing by said advances amounted to \$2,261,642, and the penalties to \$108,545.

In answer to the fifth question, undervaluations are most frequent in cases of consigned goods.

In answer to the sixth question, it is the opinion of this office that the greatest difficulty in determining market value is on textiles known as "fancies" or "novelties."

In response to the seventh question, I have to say that the operations of the ten-day bond are against the interests of the Government. The importer, when called upon to furnish the 90 per cent of the merchandise in his possession by the operations of this bond, seldom produces the goods. I believe it should be so amended as to make it a penalty bond and limit its cancellation to three days after the collector of customs receives the return of the appraiser. A sum double the estimated duties, in my opinion, is sufficient, if the bond is so drawn as to make the importer accept it as a liquidated damage. The appraiser can not appraise or correctly describe goods in a mixed invoice unless he has the merchandise before him.

In response to the ninth question, I am of the opinion that it would not interfere with the proper collection of duties if the consignee or agent were allowed at the time of entry to add a sufficient sum to make market value.

I have no data at my disposal that will justify me in answering the other questions.

Very respectfully,

G. F. CROSS, *Special Agent.*

Senator JONES, of Arkansas. What do you mean by changing the ten-day period to a period of three days—to begin when?

Mr. CROSS. To begin three days after the collector receives the return of the appraiser.

Senator JONES, of Arkansas. To begin when the collector receives it?

Mr. CROSS. Three days from that time.

Senator JONES, of Arkansas. Then you would recommend the abolition of the ten-day bond?

Mr. CROSS. I recommend the amendment of the law which authorizes the ten-day bond, so as to—

Senator PLATT, of Connecticut. The importer is now bound to produce the goods at any time within ten days after the collector receives the return of the appraiser. You would have him bound to produce the goods for three days after that time?

Mr. CROSS. Three days after the collector receives the return of the appraiser the bond stands canceled.

Senator JONES, of Arkansas. And in all other respects leave it as it is?

Mr. CROSS. No, sir; change it so as to have it provide—

Senator PLATT, of Connecticut. That the sum named in it shall be taken as liquidated damages?

Mr. CROSS. Make it a penal bond, instead of in its present form.

Senator JONES, of Arkansas. That is what it is now.

Mr. CROSS. As it is now everybody says it is not worth the paper it is printed on.

Senator JONES, of Arkansas. That is because it is a penalty bond.

Senator PLATT, of Connecticut. What Mr. Cross means is that instead of having the bond in the shape it is now, the penal sum being twice the amount of the invoice, to have it twice the amount of the estimated duties and have that considered as liquidated damages.

Mr. CROSS. Yes; that when the importer signs the bond and accepts those terms, that amount shall be as liquidated damages, so that they can sue successfully. As it is now I am informed they can not.

Senator JONES, of Arkansas. You would have the penalty become operative when the importer fails to produce the goods within three days?

Mr. CROSS. When he fails to produce the goods when called for, within three days after the time limit.

Senator JONES, of Arkansas. The purpose, as I understand it, of the ten-day bond is to allow merchants to take their goods out and let them go into consumption at once.

Mr. CROSS. That is not the purpose of the bond. The purpose of the bond originally was to prevent the congestion of the public stores. The importer under the bond agrees to hold those goods intact for ten days after the appraiser makes his return. The practice is to hold them no time, to pay no respect to the bond which they have signed, and to let the goods go into consumption, ship them, and when the case or cases before the appraiser indicate a necessity for them to come in, and we ask the collector for them, they are seldom or never furnished.

Senator JONES, of Arkansas. The operation of your amendment would be to make it necessary for the importer to retain the goods until the expiration of three days.

Mr. CROSS. Yes; to have them under the control of the Government until the Government is through with them.

Senator JONES, of Arkansas. Why would it not be more effective not to deliver the goods to him until that time?

Mr. CROSS. It would be; but you would have to have them all in the public stores and you probably would not have room for them.

Senator PLATT, of Connecticut. The object of the bond originally was, as you say, to prevent the congestion of imported goods in the hands of the Government?

Mr. CROSS. Yes.

Senator JONES, of Arkansas. It was not intended to facilitate the immediate use of the goods?

Mr. CROSS. No, sir; the terms of the bond cancel it ten days after the appraiser's report.

Senator JONES, of Arkansas. Some of the gentlemen who have been before the committee have said it took quite a while to have an appraisement made, that there might be a half dozen different classes of goods in one case, and that it would take two days for a valuation in each classification, the goods going to the different divisions. That, it seems to me, would delay the delivery of the goods considerably, and then to add three days more to the ten or twelve or fifteen

days that the goods might be in the custom-house while being subjected to inspection, would make a very slow delivery of the goods from the ship to the consumer.

Mr. CROSS. The three days more are simply to give the collector of customs an opportunity to disagree with the appraiser's action.

Senator JONES, of Arkansas. I understand that; but I am talking about the inconvenience to which the importers would be put by making it impossible for them to get the goods for two or three weeks after they are landed.

Mr. CROSS. As it is now the importer has two days, after he is notified that his goods have been advanced, to appeal.

Senator JONES, of Arkansas. After what?

Mr. CROSS. After he receives notice that his goods have been advanced by the appraiser, he has two days in which to file his appeal with the collector of customs for reappraisement by one of the general appraisers.

Senator PLATT, of Connecticut. Are the goods retained while that goes on before the appraiser and the Board of General Appraisers?

Mr. CROSS. Frequently they take the appeal, and when the general appraisers call for the goods they can not be produced. They come forward and ask if they will not make the appraisement on verified samples. The Government is at the mercy of the interested party, who will swear that those are correct samples. Any man who will swear falsely on entry to what they are required to swear to, will, in my opinion, follow out his line of operation to beat the Government out of its revenues by presenting false samples.

Senator PLATT, of Connecticut. The nine packages which are delivered to the importer under the bond have to be held until ten days after the appraiser makes his report to the collector?

Mr. CROSS. Yes, sir.

Senator PLATT, of Connecticut. They can not be called for, then, if an appeal is taken, while the proceedings are pending before the general appraiser or the board of appraisers. They have to be called for by the appraiser before he makes his report?

Mr. CROSS. Certainly.

Senator PLATT, of Connecticut. Or within ten days thereafter?

Mr. CROSS. The appraiser never calls for them after he makes his return. He makes the call for them before he describes the goods and before he fixes the value.

Senator PLATT, of Connecticut. But the one package can be held for the final determination of the case before the Board of General Appraisers?

Mr. CROSS. Yes, sir. They can act only on the one.

Senator JONES, of Arkansas. Suppose proof is produced that the goods are the same.

Mr. CROSS. If proof is produced that the goods are the same and the importer will agree to abide the decision of the appraisers, then it can be done and it is done in that way. The courts have decided time and again that the goods must be before the appraiser, and when it is determined on verified samples the interested parties must agree to abide by the decision on those samples.

Senator PLATT, of Connecticut. Suppose one package goes into the appraiser's stores—the public stores—and the appraiser in examining the package finds in it goods which are undervalued and he advances them. Does he or can he advance goods of the same description

which are contained in the other nine cases that are not in his possession?

Mr. CROSS. He can if they are described on the invoice as the same goods. For instance, a man may have ten cases and the numbers run from ten to twenty; ladies' cashmeres, so much. The action on that one case would extend to the other nine.

Senator PLATT, of Connecticut. If they were all described in the same way?

Mr. CROSS. If they were all described in the same way in the invoice.

Senator PLATT, of Connecticut. Are they in fact?

Mr. CROSS. Seldom. You might get a hundred invoices, and you would find three out of the hundred so. They are mixed.

Senator PLATT, of Connecticut. Practically, if the appraiser finds goods in the case ordered into the public stores which are to be advanced, is he in position to say that goods of a similar nature in the other cases shall be advanced?

Mr. CROSS. His action would not be legal.

Senator PLATT, of Connecticut. Unless they are so described that there is no question that they are precisely the same goods?

Mr. CROSS. Yes, sir.

Senator JONES, of Arkansas. The identical goods?

Mr. CROSS. The identical goods.

Senator PLATT, of Connecticut. Then he could make the advance upon the identical goods in whatever case they were consigned?

Mr. CROSS. Yes, sir.

Senator PLATT, of Connecticut. But practically that does not amount to very much?

Mr. CROSS. Very little.

Senator JONES, of Arkansas. Let me ask a practical question in this connection. How much trouble would it be to have the goods sampled by the customs officers?

Mr. CROSS. It could be done, I think, with a small increase of the force, in the stores or warehouses of the importers, but the samples should not be taken unless the cases are intact at the time.

Senator JONES, of Arkansas. Precisely. The thought that occurred to me is this: If you allow the cases to go out under any provision of this kind, why would it not be safe to have the goods sampled first? Not get certified samples from the importers, but have samples taken by officers of the Government, so that they may be thoroughly identified, and all that sort of thing, and have them brought to the appraiser's office in case they are needed.

Mr. CROSS. In the first place, goods can not be examined until after the entry is made at the time that the estimate of duties is made. The permit is issued at that time for the delivery of the goods, nine packages to the importer and one for examination at the public stores.

Senator JONES, of Arkansas. It would be easy enough to intervene an examination between the two?

Mr. CROSS. There can not be any examination until after the permit is issued.

Senator JONES, of Arkansas. By a custom-house officer?

Mr. CROSS. The collector's force. The appraiser knows nothing about that until the invoice is sent to him by the collector for examination and appraisement.

Senator PLATT, of Connecticut. Suppose you had a force of samplers who should follow the goods to the importer's place, examine them

there, and take samples there, and then let the goods go into distribution?

Mr. CROSS. In cases where there was not any question, and the importer was not undervaluing, you would have no trouble; but the trouble is that whenever you ask for goods as to which the man who gets them, the importer, is conscious of undervaluation, he gets away with them on the first permit.

Senator JONES, of Arkansas. The goods could be sampled before he gets possession of them.

Mr. CROSS. He has possession of that particular portion of the importation on the permit, and the only way would be to have all the goods ordered in for examination and appraisement, and that would be a hardship on a great many gentlemen who do not undervalue.

Senator PLATT, of Connecticut. I do not think you yet get just the point of Senator Jones's inquiry. He asks whether it is not possible for the Government, before it lets the nine packages go into the hands of the importer or before the cases are opened by the importer, to take samples and to send them to the appraisers, so that they may have samples of the goods.

Mr. CROSS. If you could devise some practice so that the goods should be in the custody of the Government continually until that was done, it would be all right. Just as soon as he makes entry, just as soon as the estimated duty is deposited, he gets a permit.

Senator JONES, of Arkansas. He does not get the goods when he gets the permit?

Mr. CROSS. He gets them right there from the dock and they are taken to the transportation line and shipped out of town.

Senator PLATT, of Connecticut. Do they not take the goods to his establishment at all?

Mr. CROSS. No, sir. They ship them right off. They make contracts for quick delivery.

Senator JONES, of Arkansas. It seems to me the Government of the United States has custody of the goods and turns them over to the importer only after it has taken such steps as will guarantee the collection of the customs. If, as one of the steps necessary to do that, one case is to be sent to the Government stores and the ten cases are ordered to be sampled by a Government sampler, wherever they may be, it seems to me there ought to be no practical difficulty about it.

Mr. CROSS. That practically would be the case now, but they are gone.

Senator PLATT, of Connecticut. Sample them before you deliver them.

Senator JONES, of Arkansas. Let the permit provide that he may take the goods as soon as they have been sampled by the Government?

Mr. CROSS. That would do; but it would change the whole practice. I think the other way would be the easier and most convenient.

Senator PLATT, of Connecticut. The difficulty about that, as it is claimed, is that it takes a long time to examine goods in the appraiser's stores, and that it is not fair to the importer to hold all the goods while the examination is going on.

Mr. CROSS. I agree with that.

Senator PLATT, of Connecticut. It was suggested by somebody that if ever they were to be called for the Government ought to find out that they wanted the goods within five days.

Mr. CROSS. I think the administration of this service ought to be held responsible for delays.

Senator PLATT, of Connecticut. I had not quite completed what I wished to ask you about the practical operation of the bond. You say the appraiser, if he finds from the invoice that there are goods in the other cases he does not have which are identical with the goods in the case he does have, that he can and does advance the duty on those goods?

Mr. CROSS. If they are described in the invoice.

Senator PLATT, of Connecticut. Yes; so as to show they are identically the same?

Mr. CROSS. Yes; he can.

Senator PLATT, of Connecticut. But that practically it does not amount to much.

Mr. CROSS. Not much.

Senator PLATT, of Connecticut. I understand different classes of goods are packed in the same case?

Mr. CROSS. Yes; sir.

Senator PLATT, of Connecticut. If the importer is undervaluing goods in one case, it is a fair presumption that he is undervaluing goods which are differently described in the other cases?

Mr. CROSS. Yes, sir.

Senator PLATT, of Connecticut. The appraiser could not advance those goods, which are differently described, which happen to be in the other cases?

Mr. CROSS. That is right.

Senator PLATT, of Connecticut. So that if the importer is undervaluing all through his invoice and all the goods do not appear in the case which the appraiser has, there is no way to reach the undervaluation?

Mr. CROSS. There is no way.

Senator PLATT, of Connecticut. Except as to those goods which appear in the case he has.

Mr. CROSS. Yes, sir.

Senator PLATT, of Connecticut. Do you think any considerable quantity of goods escape the payment of legal duties in that way?

Mr. CROSS. I do. You take the tariff as it is now. You find in some of the high-class woolen goods, fabrics, underwear, a duty of 44 cents a pound and 40 to 60 per cent ad valorem. They require it to be weighed. A gentleman walked into my office a few days ago and told me that he was the first importer in importing this fine underwear. They call it sanitary. It is humbuggery. But it is a fine article of goods. He said that now he can not sell what he has. He offered his goods at cost and can not sell them. I have information that that class of underwear is undervalued, by direction of the importer, 20 per cent; but that would not make the difference. There is 44 cents a pound.

In order to reach that, when complaint came to me I requested the collector to order in all that class of goods coming to a certain man. That gives opportunity to appraise and weigh. Now, when we can not get the goods to weigh, we must accept the weight as given on the invoice.

Senator PLATT, of Connecticut. Then it comes to this: If you find undervalued goods in the package which the appraiser has, you have no means of determining whether the goods in the other boxes are properly classified, or properly valued if properly classified?

Mr. CROSS. There is no way at all.

Senator PLATT, of Connecticut. You think there is an opportunity for a large leakage there?

Mr. CROSS. Yes, sir; in my opinion there is.

Senator JONES, of Arkansas. What proportion of the goods are taken out under ten-day bonds?

Mr. CROSS. Oh, nearly all, except those that are warehoused.

Senator JONES, of Arkansas. Of course; that is what I want to ascertain.

Mr. CROSS. I suppose about 40 per cent are warehoused, as represented by the duties; but I could only tell that by the duties.

Senator JONES, of Arkansas. More than half are taken out on ten-day bonds?

Mr. CROSS. Yes, sir. I had a statement which showed that in dollars and cents.

Senator JONES, of Arkansas. I do not care for it absolutely.

Senator PLATT, of Connecticut. Is there any difficulty in proving undervaluation after a case is appealed to the appraiser or from him to the Board of General Appraisers?

Mr. CROSS. There is some difficulty because of the methods that are necessary to adopt here in getting evidence. We have to send out and get merchants who are importing similar goods from the same country.

Senator JONES, of Arkansas. Are they summoned or simply requested to attend?

Mr. CROSS. They are summoned regularly.

Senator PLATT, of Connecticut. I ask this question of you because I wish to learn what the practice is. Suppose that five witnesses, representatives of what we will call reputable houses, who actually purchase goods, and therefore know what they pay for them, estimate the value of certain goods, and, on the other hand, 25 witnesses, some who purchase goods, some to whom goods are consigned, come in and say that the value is far below what the representatives of legitimate houses place it at. What is the practice with regard to a case of that sort?

Mr. CROSS. So far as my observation goes, there is no practice. It depends purely upon the judgment of the general appraiser as to the people before him. It is a mere question of judgment. The appraiser has to exercise his judgment in regard to men, whether they have motives other than just ones.

Senator JONES, of Arkansas. In other words, you think the general appraisers give to each man's testimony the weight they think it fairly entitled to?

Mr. CROSS. Yes; I do.

Senator PLATT, of Connecticut. On questions of valuation, there is no trial with an attorney present?

Mr. CROSS. No, sir.

Senator PLATT, of Connecticut. On questions of classification there is?

Mr. CROSS. On questions of classification there is. It is a sort of quasi judicial proceeding, but it is not so with cases of reappraisal. Sometimes there are attorneys employed, and they come and present their case to the general appraiser, but they are not present, nor is their side present, when the evidence on the side of the Government is taken.

Senator PLATT, of Connecticut. Aside from the matter of which you have spoken, the ten-day bond, do you think there is any way in which

the administration of the law could be made any more effective than it is now?

Mr. CROSS. I believe if the bond is good and you can maintain a suit for damages, there is no necessity for interfering with it. I am told by everyone that it is not worth the paper it is written on. They violate it.

Senator PLATT, of Connecticut. It is practically a dead letter?

Mr. CROSS. Practically.

Senator PLATT, of Connecticut. The goods are neither delivered when called for nor is the bond put in suit.

Mr. CROSS. That is right. Mr. Macfarlane, the district attorney under Cleveland, thought they might successfully prosecute. We fixed a case to get it up there. It is there now.

Senator PLATT, of Connecticut. Do you know whether or not there has been an opinion by the Attorney-General or by the Secretary of the Treasury that there can not be a recovery on those bonds?

Mr. CROSS. We never have been able to get one.

Senator PLATT, of Connecticut. Have you heard there was one?

Mr. CROSS. I never heard there was one.

Senator PLATT, of Connecticut. I have heard there was such an opinion or ruling.

Mr. CROSS. I know one thing. When the importer does not wish to let the Government have the goods under the bond, he does not do it, and there is no remedy, so far as I know.

Senator PLATT, of Connecticut. Do you think he presents honest samples in every case?

Mr. CROSS. I do not know what they do in handling questions that do not come into my office; but we have had several cases there where the importer agreed, when he could not furnish the goods, to furnish verified samples. Before he delivered those samples he had to submit them to us; at least we requested that they should be submitted; and I have taken consular samples and compared them, and found they were not the same goods, notwithstanding they were sworn to.

Senator PLATT, of Connecticut. When a man takes a false oath in his entry or in any proceeding in the custom-house, why ought he not to be prosecuted for it, if it is discovered?

Mr. CROSS. He ought to be; but there is always some difficulty attending it. You can not prove the case.

Senator JONES, of Arkansas. How do you know you can not prove the case without trying?

Mr. CROSS. There is a case now which has been pending for several years. A man came down and swore that he was the owner and purchaser of the goods, when he had always previously been an agent. The records on the other side show that he is a mere agent. He did it in order to advance his goods on entry, so that he would not have to pay the penalty, where the penalty was 2 per cent for every 1 per cent undervalued.

Senator PLATT, of Connecticut. That, to your mind, was a clear case of false oath?

Mr. CROSS. Of course, to my mind.

Senator JONES, of Arkansas. How long ago was that?

Mr. CROSS. I think, perhaps, two and a half or three years.

Senator JONES, of Arkansas. Has he been indicted by the grand jury?

Mr. CROSS. I believe he was indicted. Mr. Coler, who was the

assistant attorney under the last administration, has been retained to help prosecute the case this time.

Senator PLATT, of Connecticut. Why do they not bring it to trial?

Mr. CROSS. I do not know.

Senator PLATT, of Connecticut. Is there any congestion of cases of this kind in the courts?

Mr. CROSS. There are a great many there which, for some reason or other, are never tried.

Senator JONES, of Arkansas. How many indictments are there? Has there been any considerable number of indictments for false oaths in these matters?

Mr. CROSS. Very few.

Senator JONES, of Arkansas. Why so few, when instances of false swearing are so frequent?

Mr. CROSS. They are not so frequent; they are occasional.

Senator JONES, of Arkansas. Is there not a false oath in every single case of deliberate, fraudulent, and willful undervaluation?

Mr. CROSS. Yes, sir; but the law states that it is not presumptive evidence of fraud on which you can prosecute.

Senator JONES, of Arkansas. What is that?

Mr. CROSS. Whenever the advance is over 50 per cent, the goods are forfeited; but the fact that a man's goods are advanced is not presumptive evidence of fraud; that you can not prosecute him criminally.

Senator JONES, of Arkansas. Do you mean to say the law says that?

Mr. CROSS. That is what I am told, and that the courts have so decided. Yes, it is in the law.

Senator JONES, of Arkansas. I should like to see it. Here is a paragraph in section 17:

"And any person who shall willfully and corruptly swear falsely on an examination before any general appraiser, or board of general appraisers, or local appraiser, or collector, shall be deemed guilty of perjury."

Then there are several other provisions here which cover the same ground. You told us of an instance just now where a man had entered some goods here and when his goods were called for he brought in certified samples.

Mr. CROSS. Yes, sir.

Senator JONES, of Arkansas. He certified that they were the samples of those goods?

Mr. CROSS. Yes, sir.

Senator JONES, of Arkansas. You found evidence by looking into the consular samples and examining them that that was not the truth?

Mr. CROSS. Yes, sir.

Senator JONES, of Arkansas. I should like to know how such perjury can be committed in the city of New York, in open daylight, without anybody being indicted for it.

Mr. CROSS. What evidence is there, but a business view, that perjury was committed?

Senator JONES, of Arkansas. Do you think there is any doubt that he committed perjury?

Mr. CROSS. No, sir.

Senator JONES, of Arkansas. The same evidence that satisfied you would satisfy twelve jurors that he had done it. They would indict him. He would be called before a court and charged with the crime. The evidence that would convince the minds of the members of that

jury beyond a reasonable doubt would be sufficient to send him to the penitentiary. Why do they not do that? People here tell us perjury is frequent; that it is going on all the time and in a great number of instances, and yet we find no indictments or prosecutions. It seems to me somebody ought to call the attention of the grand jury to this matter and see that some prosecutions are had.

Mr. CROSS. I think so, provided a successful prosecution can be had.

Senator JONES, of Arkansas. You can not tell beforehand whether or not there will be a successful prosecution. It seems to me that you, occupying the position you do, ought to call the attention of the foreman of the grand jury to these things and see that they are investigated.

Mr. CROSS. The action would be taken by the collector of customs.

Senator JONES, of Arkansas. He brings the civil action.

Mr. CROSS. We only make the investigation and look up the facts for the other officers. I wish to ask a question, because I am no lawyer. Suppose in the case we were just speaking of an action was brought; what proof would be accepted by the court in a criminal prosecution?

Senator JONES, of Arkansas. I do not know what is the proof in the case, but anything that would satisfy the minds of twelve jurors beyond a reasonable doubt that the man had committed perjury would secure his conviction.

Mr. CROSS. The proof would be that batch of consular samples, which governed our opinion and prevented the acceptance of his verified samples. It would only be our opinion as gained by those consular samples. While we could insist on an advance of his merchandise, could we maintain a criminal prosecution against him by reason of our presenting the consular samples in contradistinction to the samples he presented?

Senator JONES, of Arkansas. You had evidence enough to satisfy you he was guilty of perjury?

Mr. CROSS. Yes, sir.

Senator JONES, of Arkansas. That being true, it seems to me it was a proper case to be submitted to the petit jury to determine whether to convict the man of perjury.

Senator PLATT, of Connecticut. Section 6, with which you are familiar, refers to the declaration of the man on his entry.

"That any person who shall knowingly make any false statement in the declarations provided for in the preceding section, or shall aid or procure the making of any such false statement as to any matter material thereto, shall, on conviction thereof, be punished by a fine not exceeding five thousand dollars, or by imprisonment at hard labor not more than two years, or both, in the discretion of the court: *Provided*, That nothing in this section shall be construed to relieve imported merchandise from forfeiture by reason of such false statement or for any cause elsewhere provided by law."

Everybody connected with the customs administration knows that people are almost daily making false statements in those declarations.

Senator JONES, of Arkansas. Knowingly.

Senator PLATT, of Connecticut. Knowingly. Now, why can they not be punished?

Mr. CROSS. I do not know.

Senator PLATT, of Connecticut. Section 9 says:

"That if any owner, importer, consignee, agent, or other person shall make or attempt to make any entry of imported merchandise by

means of any fraudulent or false invoice, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or shall be guilty of any willful act or omission by means whereof the United States shall be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, affidavit, letter, paper, or statement, or affected by such act or omission, such merchandise, or the value thereof, to be recovered from the person making the entry, shall be forfeited, which forfeiture shall only apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles of merchandise to which such fraud or false paper or statement relates; and such person shall, upon conviction, be fined for each offense a sum not exceeding \$5,000, or be imprisoned for a time not exceeding two years, or both, in the discretion of the court."

If anybody makes or attempts to make any entry by means of a false invoice, not only shall his goods be forfeited, but he is to be punished. Why can it not be done?

Mr. CROSS. You can forfeit the goods; but you may have all the documentary evidence you please and you can not convict criminally.

Senator JONES, of Arkansas. Why do you not try?

Mr. CROSS. We are trying all the while. We are going to try again.

Mr. ALDRICH. I call attention to this clause in section 7:

"And forfeiture shall be adjudged unless he shall rebut such presumption of fraudulent intent by sufficient evidence."

Mr. SHERWOOD. The Reichenbach & Company case covered a lot of goods bought by Marshall Field & Co. in St. Gall of Reichenbach & Co. in France, at franc prices, to be shipped direct to Marshall Field & Co. Instead of shipping the goods direct to Marshall Field & Co., Reichenbach & Co. invoiced and shipped the goods to their (Reichenbach) house in New York. Reichenbach & Co. informed Marshall Field & Co. that those goods—amounting to 2,400 marks, I believe—had by mistake been shipped to Reichenbach & Co. instead of to Marshall Field & Co., and, being in their name, they made the entry and paid the duty, giving them a memorandum of the amount paid, 1,600 marks, for which Field & Co. remitted to Reichenbach & Co. Later it was discovered that Reichenbach & Co., instead of entering the goods at 2,400 marks, had entered them at only 1,600 marks. Consequently they paid duties on only 1,600 instead of 2,400 marks, the amount which Marshall Field & Co. paid them.

Senator PLATT, of Connecticut. They cheated the Government and Marshall Field & Co. at the same time.

Mr. SHERWOOD. Both. I have contended from the beginning that Marshall Field & Co. had a claim against Reichenbach & Co. for swindling them.

Mr. CROSS. By direction of the Department suit was instituted against the member of the firm of Reichenbach & Co. in New York?

Mr. SHERWOOD. Yes, sir.

Mr. CROSS. A criminal prosecution?

Mr. SHERWOOD. Yes, sir.

Mr. CROSS. What was the result?

Mr. SHERWOOD. It failed.

Senator PLATT, of Connecticut. Why?

Mr. SHERWOOD. I was told that the law was so lax in regard to those matters that it is impossible to convict anybody of swindling.

Mr. ALDRICH. It is the hardest thing in the world to prove criminal intent.

Senator PLATT, of Connecticut. The law does not require criminal intent. Mr. Cross, you do not think there is any objection to allowing the consignee of goods manufactured on the other side and sold on this side, who is a mere agent of the manufacturer, to make additions to the invoice to make market value?

Mr. CROSS. I think there would be no objection. I think, if permitted, it would result in an advantage to the Government.

Senator PLATT, of Connecticut. In other words, if a man has deliberately consigned with intent to defraud the Government, you would give him time to repent before he commits an overt act?

Mr. CROSS. I think the fear of advance would frequently cause the agent on this side to advance the goods, from what he has seen take place with similar goods brought in by others.

Senator PLATT, of Connecticut. You think the Government would get more money if it allowed everybody to make additions to invoices?

Mr. CROSS. Yes, sir. That is only an opinion which I have formed from coming in contact with that branch of the service occasionally. The question comes before these other gentlemen every day. I only know about it when it is in my office.

Senator JONES, of Arkansas. To what extent do you think that provision of the law prevents consignors abroad from attempting fraud?

Mr. CROSS. Not allowing them to advance?

Senator JONES, of Arkansas. Yes.

Mr. CROSS. I do not think it prevents them at all. There is strong evidence here every day that it does not.

Senator PLATT, of Connecticut. Do you state in your paper how many cases of advancement came under your consideration during the past year?

Mr. CROSS. I give the statistics of the customs-house. Eliminating from that the entry of free goods and goods specifically provided for, there is about 9 per cent. It is stated in the paper.

At 3 o'clock and 20 minutes p. m. the subcommittee adjourned until to-morrow, Wednesday, November 23, 1898, at 11.30 o'clock a. m.

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OFFICE OF THE BOARD OF GENERAL APPRAISERS,  
*New York City, N. Y., November 23, 1898.*

The subcommittee met at 11.30 o'clock a. m.

Present: Senators Platt, of Connecticut, and Jones, of Arkansas.

#### STATEMENT OF CHARLES H. HAM.

Senator PLATT, of Connecticut. You are president of the Board of General Appraisers?

Mr. HAM. I was appointed president by the Secretary about a year ago.

Senator PLATT, of Connecticut. How long have you been one of the general appraisers?

Mr. HAM. Since 1890.

Senator PLATT, of Connecticut. Previous to that time I think you were connected with the customs service in some capacity?

Mr. HAM. I had been, although I was not at the time of my appointment to this office. I had been appraiser of the port of Chicago for a dozen years; but I had retired from that office. Mr. Cleveland had retired me. I had been in other business for four years; then I was appointed to this office.

Senator PLATT, of Connecticut. Is there any one of the Board of General Appraisers whose occupation was that of a lawyer?

Mr. HAM. Several. Judge Somerville had been a lawyer all his life, and for ten years was on the supreme bench of Alabama. Mr. Lunt was a lawyer for many years, and was prosecuting attorney for one of the districts in Maine. Mr. Sharpe had been a lawyer for years. I had been a lawyer. I had practiced law in Chicago about five years. I was then in partnership with Mr. Chief Justice Fuller; but I had retired before being appointed to this place.

Senator PLATT, of Connecticut. The others, I suppose, were persons who had had experience in the customs service. Were all of them persons who had had experience in the customs service?

Mr. HAM. Not all of them. Mr. Sharretts had been appraiser of the port of Baltimore, and, as I have stated, I was for many years in the service. Mr. Jewell had been a special agent of the Treasury Department. Mr. Wilkinson had been in the New Orleans custom-house as a clerk in the appraiser's office.

Senator PLATT, of Connecticut. Mr. Tichenor for a long time was chief of the special agents at Washington?

Mr. HAM. Yes, sir; and had been in the public service a great while.

Senator PLATT, of Connecticut. So that the appraisers when appointed were persons who had had experience in the matter of customs service, and several of them had also been lawyers?

Mr. HAM. That is the fact.

Senator PLATT, of Connecticut. Your duty, as I understand it, is to pass upon appeals?

Mr. HAM. We have only appellate jurisdiction, two branches, one classification and the other reappraisement.

Senator PLATT, of Connecticut. When appeal is taken from the appraiser, it goes first to a single member of the Board of General Appraisers, if it is on valuation?

Mr. HAM. It does.

Senator PLATT, of Connecticut. If an appeal is taken on classification, where does it go?

Mr. HAM. To a board of three.

Senator PLATT, of Connecticut. I thought it was five?

Mr. HAM. We have five on division; but there are only three provided for by law as constituting the board. The others assist in the work of classification, but only three act legally.

Senator PLATT, of Connecticut. When an appeal comes to a single appraiser on a question of dutiable value, is there any proceeding before the appraiser which is like the trial of a case in court?

Mr. HAM. No; perhaps I can tell you better what the proceeding is or about what it is.

Senator PLATT, of Connecticut. That is what I wish to know.

Mr. HAM. All cases come here, and they come to me in the morning. That is true of all the cases that have come to the board at all. I assign them to the different gentlemen as I think best, selecting those who are the most experienced in the subject of each case. I

assign those cases to the general appraisers—one case or two or three to Mr. Lunt; two or three to Mr. Sharretta, two or three to Mr. Shurtleff, and as many to Colonel Jewell. Then each one takes the cases; examines them, finds out what witnesses he wants to call, and arranges to have them called at the earliest possible moment; fixes a day for a hearing and calls his witnesses, and examines them freely or in any way he thinks most likely to elicit the truth.

Senator PLATT, of Connecticut. The witnesses are not summoned on the one side by the Government and on the other by the importer. The appraiser determines from what men he wishes to obtain information?

Mr. HAM. That is one part of it, but he is apt to indicate to the importer whom he may call, and he may call them or not. However, he would probably call them.

Senator PLATT, of Connecticut. Who makes up the case for the Government or to sustain the appraiser's valuation, or does anyone make it up?

Mr. HAM. There is no attorney in cases of reappraisement. The counsel provided by the Treasury Department does not appear in cases of appraisement; only in classification cases.

Senator PLATT, of Connecticut. Would the appraiser call the examiner who had advanced the goods and consult with him as to where he obtained the information that enabled him to do so?

Mr. HAM. Often; and he takes the names of witnesses suggested by the examiner, who would be likely, I suppose, to sustain the examiner's action.

Senator JONES, of Arkansas. There is no record made of this examination?

Mr. HAM. There is a record on the papers. The witness papers remain in the record; what we call the blue papers, being made of blue paper. The witness is called, and sometimes he is examined at length.

Senator JONES, of Arkansas. Is he summoned?

Mr. HAM. Yes, sir; he is notified to appear.

Senator PLATT, of Connecticut. It is not a regular legal subpoena which is served on him?

Mr. HAM. Oh, no; it is not necessary, as I understand the law, that any witness shall be called. It is not essential.

Senator JONES, of Arkansas. If he is called, can you compel his attendance?

Mr. HAM. Yes. The provision is that he must appear, under a penalty of \$100. It has never been enforced.

Senator PLATT, of Connecticut. Do you take down all the testimony or the substance of it?

Mr. HAM. We do sometimes stenographically; not often.

Senator PLATT, of Connecticut. Sometimes you do not?

Mr. HAM. Sometimes we do not. You see the point is that most of the witnesses called in that way are men who are supposed to be experts in the line of goods under consideration, and their opinion as to the value or quality of the goods is desired.

Senator PLATT, of Connecticut. One gentleman made a pitiful complaint to me that the importer was not allowed to be present, either himself or by counsel, to cross-examine or even to hear what witnesses may say to the effect that the goods ought to be advanced in value.

Mr. HAM. It is the custom to call the importer and let him make any statement he wishes in regard to the case, or to be questioned in

regard it; but it is not customary to call the witnesses in the presence of the importer and then take their testimony, because sometimes they would not speak. It would be difficult to get witnesses, it has always been the impression of the board, if they were examined in the presence of the importer.

Senator PLATT, of Connecticut. The appraiser, then, is not a judge exercising judicial functions and trying a case in the ordinary way, but he is an official, striving by every means which may suggest itself to his mind, to ascertain a fact; that is, the value of the goods in question?

Mr. HAM. You have stated it exactly. It is to find a fact and not to act judicially at all.

Senator PLATT, of Connecticut. You think that is fair and right?

Mr. HAM. I do. I have never found any reason to think it was unfair.

May I state that if we should call the importer and allow him to cross-examine all our witnesses it would make the investigation extend to great length and would practically destroy the system, I think, by overloading it so.

Senator PLATT, of Connecticut. A general appraiser with years of experience on the board, and with experience before he came into this service, is supposed himself to acquire a good deal of knowledge—

Mr. HAM. Expert knowledge.

Senator PLATT, of Connecticut. In reference to the goods, which information he has in his own mind without inquiry?

Mr. HAM. To some extent. But that is a dangerous assumption of knowledge. Perhaps it is hardly warranted. The goods are so various—they are so widely different, and the changes in price are so frequent and sometimes extensive—that it is almost impossible for a general appraiser to become an expert on many lines of goods. We try to strengthen that idea as much as we can by assigning the cases to men who have had experience in the same line before.

Senator PLATT, of Connecticut. Now, suppose the single appraiser sustains the action of the appraiser and the importer is dissatisfied. He takes an appeal, does he not?

Mr. HAM. He takes an appeal to a board of three.

Senator PLATT, of Connecticut. The matter is then heard by the board. Does the general appraiser, who has passed upon the case, sit on the board?

Mr. HAM. No, sir; never. The general appraiser who has sat upon the case is usually called before the board if there is anything to explain.

Senator PLATT, of Connecticut. But he is not one of the board?

Mr. HAM. He is not one of the board. We so arrange the boards that no man needs to sit on his own case.

Senator PLATT, of Connecticut. I wish to make an inquiry on that point. Do you appoint the three general appraisers who constitute a board of three?

Mr. HAM. The Secretary appoints them.

Senator JONES, of Arkansas. For each particular case?

Mr. HAM. No. They are continuous.

Senator PLATT, of Connecticut. Suppose one of the gentlemen who compose the board has passed on a pending case which has been appealed to the board; do two decide or do you call in some one else?

Mr. HAM. The board consists of three.

Senator PLATT, of Connecticut. None of whom acted in the first instance?

Mr. HAM. The cases of an appraiser go to another board, of which he is not a member.

Senator PLATT, of Connecticut. I thought the board of three was a constant board; that three general appraisers had been appointed to constitute such a board?

Mr. HAM. They have been.

Senator PLATT, of Connecticut. And that they were the same ones all the while?

Mr. HAM. There are three boards of three members in existence all the time, so that a member of the board acting alone in a case on first appeal can have his case sent to a board of which he is not a member. That is done constantly. That is the practice.

Senator PLATT, of Connecticut. I was mistaken in supposing that the board of appraisers was a constant board of three particular persons.

Mr. HAM. It is, except that it may be changed at any time. I have in my pocket a little schedule of the boards. There is the schedule, which I have had in my pocket ever since the boards were created. We could not allow members to sit on their own cases. That would not be proper; and this system was arranged to meet that difficulty.

Senator PLATT, of Connecticut. The three boards are so constituted that a particular board passes upon cases which have been decided by other members of the general board than those who belong to that particular board?

Mr. HAM. Yes, sir; that is true.

Senator PLATT, of Connecticut. When an appeal is brought before the Board of General Appraisers, is there any more of the formality of judicial proceedings before the board than before the general appraiser, or do the same rules apply?

Mr. HAM. There is sometimes more particularity in some instances, but usually—and this distinguishes it from the general appraisers' hearing—we hear it on the record. We do not call witnesses if we can avoid it. We insist that the importer shall call his witnesses, and that the other side, the Government, shall call its witnesses before a single general appraiser. They can there make a record that comes up to us as a record, and we review the case on the record.

Senator JONES, of Arkansas. I thought you said you did not take down the testimony?

Mr. HAM. We do in some cases; at least they make a memorandum or statement of it.

Senator JONES, of Arkansas. This is not a trial *de novo*, but a retrial.

Mr. HAM. We have no original jurisdiction. It is all appellate.

Senator JONES, of Arkansas. I mean you introduce no new testimony on the hearing before the board?

Mr. HAM. We do sometimes, but we try to avoid it if we can. We discourage it. We encourage as full presentation as possible before a single general appraiser.

Senator PLATT, of Connecticut. The single general appraiser and the board both have the packages before them to examine, if they wish?

Mr. HAM. They have samples, and they have the goods if necessary, a certain number of cases of goods, but always samples.

Senator PLATT, of Connecticut. When it comes to questions of classification appealed from the appraiser of the port, where do they go in the first instance?

Mr. HAM. That appeal is really from the collector.

Senator PLATT, of Connecticut. Because he acts upon the report of the appraiser. Where does it go in the first instance?

Mr. HAM. It goes to a board of three on classification. That board consists to-day of Judge Somerville, chairman, Colonel Tichenor, and Colonel Wilkinson.

Senator PLATT, of Connecticut. It may be changed in its membership from time to time?

Mr. HAM. Yes, sir; by the Secretary of the Treasury.

Senator PLATT, of Connecticut. You have two others who are in a sense supernumeraries?

Mr. HAM. They assist in getting up cases and hunting up facts and evidence, and even sit with the board, if necessary, and hear the evidence. They do not sign any decision.

Senator PLATT, of Connecticut. State how the proceedings on appeal are conducted before the classification board.

Mr. HAM. A docket is prepared, consisting of the cases which it is proposed to have passed upon, and the docket is called regularly, like a court docket. In certain cases orders are made in the case. An importer wants a postponement of his case. He must give a good reason; and if he gives a good reason, it will be postponed. We can make an order of suspension, when a similar case has been tried and is pending in the court undecided. Those cases are suspended and held to await the decision of the court. There are other orders, but those are the most important. Then it goes to trial—to hearing.

Senator JONES, of Arkansas. You said a while ago that you might or might not in these boards admit new testimony.

Mr. HAM. That is on reappraisement. We admit all the testimony offered on classification questions.

Senator JONES, of Arkansas. Before the board?

Mr. HAM. Yes, sir; before the board of three.

Senator JONES, of Arkansas. I thought it was the board of three sitting on appeals on classifications that you are talking about now.

Mr. HAM. I am talking about it now, but I was talking about the board of appeals sitting on appeals on reappraisement.

Senator JONES, of Arkansas. In the appraisalment cases, when an appeal is taken to the board of three, you sometimes hear additional testimony and sometimes you do not?

Mr. HAM. Yes, sir.

Senator JONES, of Arkansas. Is it a rule or is it arbitrary?

Mr. HAM. It is in the discretion of the board; but in the majority of cases no testimony is offered. However, when testimony is offered and is pressed as important we always listen to it. I do not know of any case where we have not.

Senator JONES, of Arkansas. There is no dissatisfaction that has resulted from the failure to listen to additional testimony?

Mr. HAM. I do not think there is.

Senator JONES, of Arkansas. I mean as a rule.

Mr. HAM. Not as a rule. I should think not, but of course you may hear complaints that we do not hear. Generally speaking we have never had any trouble of that sort.

Then come the proceedings on hearing—testimony. Both sides are

represented, but not always. If there is an attorney representing an importer, he is heard.

Senator JONES, of Arkansas. On the classification question?

Mr. HAM. Yes. He is heard and calls the witnesses and examines them, and files his brief in support of his views.

Senator JONES, of Arkansas. The importer has an opportunity to be present himself or by attorney and to examine all witnesses?

Mr. HAM. Yes, sir; he is, if he is not present by attorney.

Senator JONES, of Arkansas. That is on questions of classification?

Mr. HAM. Yes, sir.

Senator JONES, of Arkansas. On questions of valuation that is not true?

Mr. HAM. No, sir; it is not true. He is sometimes present and sometimes not. But the importer is almost always present on reappraisement cases.

Senator JONES, of Arkansas. He has a right to be, if he chooses.

Mr. HAM. We hold that we have a right to decide the case without his presence; but it is rarely done. The same is true of classification. We might, under the strict letter of law, decide the cases without calling them on classification, but we have adopted the custom of making it absolutely open and free, because there is an appeal to the courts in the cases; and we are very glad there is an appeal, I think.

Senator PLATT, of Connecticut. So when it comes to the classification of goods, that is a question of law; law and fact, perhaps?

Mr. HAM. Law and fact. Judicial methods are followed as nearly like the courts as we can.

Senator PLATT, of Connecticut. In questions of simple reappraisement to ascertain value there is no question of law involved?

Mr. HAM. No.

Senator PLATT, of Connecticut. But in classification cases questions of the construction of the act come in?

Mr. HAM. Yes, sir.

Senator PLATT, of Connecticut. The question being whether the particular goods are to have duties assessed under one paragraph or another paragraph?

Mr. HAM. Yes, sir.

Senator PLATT, of Connecticut. How is the record made up by the board of classification? Is there an opinion rendered?

Mr. HAM. The proceedings are taken stenographically.

Senator PLATT, of Connecticut. Is a written opinion rendered?

Mr. HAM. There is a written opinion rendered in cases of any importance.

Senator PLATT, of Connecticut. When an appeal is taken, what goes up to the court?

Mr. HAM. All the record—the testimony, the evidence taken, and the protest. All the papers which are considered in the case.

Senator PLATT, of Connecticut. Does the opinion of the board go up?

Mr. HAM. Yes, sir. It is prepared by one of the members. For instance, there are three members of the board of classification. Each case is assigned to one of them to write an opinion on, and then the others join, if they agree.

Senator PLATT, of Connecticut. In short, in the hearing of questions of classification, they proceed in the same way that a court proceeds in the trial of causes?

Mr. HAM. We do.

Senator PLATT, of Connecticut. An appeal from the decision of the classification board goes to the circuit court?

Mr. HAM. It lies with the circuit court, and then there is another appeal to the circuit court of appeals, and it may be certified to the supreme court.

Senator PLATT, of Connecticut. Can you tell what proportion of classification cases stop with the general appraisers and what proportion are appealed?

Mr. HAM. I can not without reference to the records. Our report shows it. I will have it looked up for you, Senator, if you desire. A very large proportion of them are not appealed from our decisions. A very small proportion are appealed, I should say.

Senator PLATT, of Connecticut. A small proportion are appealed; but does it run into a good many cases of this character which are appealed to the circuit court?

Mr. HAM. It does.

Senator PLATT, of Connecticut. Are they disposed of rapidly there?

Mr. HAM. No, sir; rather slowly, I think.

Senator PLATT, of Connecticut. Perhaps you do not know the reason why they are disposed of slowly, but you can express your opinion about it.

Mr. HAM. I suppose the court docket is crowded all the time with general business. I have an impression that the judges rather shrink from taking up customs cases; that they do not as a rule like the customs cases. Yet, that is only an assumption with me, from the fact that they hear so few of them.

Senator PLATT, of Connecticut. Is it not a great inconvenience to the importers and to the Government that these cases can not be more rapidly disposed of when appealed?

Mr. HAM. It is.

Senator PLATT, of Connecticut. Have any suggestions been made to you, or does anything occur to you by means of which you think there might be a more speedy disposition of these appealed cases in the circuit court?

Mr. HAM. Yes, sir. I think it would be a good thing if an additional judge were appointed with the understanding that he should give special attention to customs cases.

Senator PLATT, of Connecticut. Do you think there would be enough of that work to keep one judge busy?

Mr. HAM. I think there would be; but that is a guess; I do not know.

Senator PLATT, of Connecticut. I suppose the judges themselves would be better able to answer such a question?

Mr. HAM. Yes, sir.

Senator PLATT, of Connecticut. I have heard it suggested that the case might properly stop with the general appraiser and the appeal be done away with. What do you think about it?

Mr. HAM. It would impose much greater responsibility on the Board of General Appraisers, and I should hesitate to advise it, for that and perhaps other reasons.

Senator PLATT, of Connecticut. You are not, technically speaking, a court?

Mr. HAM. No, sir; quasi only.

Senator PLATT, of Connecticut. On such questions you think the citizen ought to have a right, if he chooses, to go eventually to the regular courts?

Mr. HAM. I think so.

Senator PLATT, of Connecticut. In the trial of classification questions do you follow judicial rules with regard to the weight which is to be given to testimony?

Mr. HAM. We endeavor to do so.

Senator PLATT, of Connecticut. The classification board, then, in your opinion, considers what weight is to be given to testimony, as well as on which side there appears to be the greater quantity of testimony?

Mr. HAM. We try to discriminate and to give proper weight to the evidence, as a court would, as nearly as we can; the rules of evidence, I mean.

Senator PLATT, of Connecticut. I have heard suggestions made that if reputable firms, a few gentlemen testifying, who are actual purchasers of goods and whose standing is above suspicion, testify, agreeing as to value, and a large number of other witnesses come in and testify otherwise, that, although they may be consignees and agents of exporters, the number of witnesses is likely to outweigh the testimony of those who are beyond suspicion and who have means of knowledge. Is there anything to that?

Mr. HAM. I do not see how I can answer further in regard to it than to give my own action. On the question of the relative value of testimony as between consignees, people who receive goods on consignment, and people who purchase them in a foreign market, I should think it would be considerably in favor of the man who purchases goods, because if a man receives goods on consignment, he does not himself necessarily know anything about the foreign market value of the goods; and if he is offered as a witness, I should think his testimony would not weigh—

Senator JONES, of Arkansas. All other things being equal?

Mr. HAM. Yes, sir; it would not weigh so much with the board—it would not with me—as the testimony of the purchaser.

Senator JONES, of Arkansas. You think the board sitting in this capacity are judges of the weight and credibility of the testimony given by each individual?

Mr. HAM. I do.

Senator JONES, of Arkansas. Do you believe that any Board of General Appraisers, sitting in this way, have, because of the number of witnesses on one side of less credibility, permitted their testimony to overweigh more credible testimony because it was given by a smaller number of individuals?

Mr. HAM. I could not say that I know of any such instance.

Senator JONES, of Arkansas. Do you believe, from your knowledge of the conduct of the board, that there have been any such instances? Do you know of any instance where the board has disregarded this right of its to be judge of the weight and credibility of the testimony of a witness and has simply counted numbers to determine where the credibility was?

Mr. HAM. No; I do not know of any such instance. I should think I hold a stronger opinion than some other members of the board as to the value of the evidence of a consignee as compared with that of a purchaser.

Senator JONES, of Arkansas. But still the others, you think, value the weight that ought to be given to the testimony of each individual, some members of the board being willing to give more weight to a certain class of testimony than you are?

Mr. HAM. I think they so understand it.

Senator JONES, of Arkansas. They exercise the right of determining the weight and credibility of evidence and do not consider themselves bound by numbers simply?

Mr. HAM. I should think not. I should hope not, certainly.

Senator PLATT, of Connecticut. You have no reason to suppose that any of them do give weight to numbers without reference to the question of the credibility of the witnesses and their means of knowledge?

Mr. HAM. I have no reason to believe it.

Senator PLATT, of Connecticut. It is notorious that large quantities of goods are exported by manufacturers abroad to persons who are merely their representatives here; and those goods are consigned goods. There is a public suspicion that such goods are undervalued. If one of those consignees comes to testify as to the value of goods and puts them at less than actual buyers of reputable houses have put them at, ought his testimony to receive the same consideration and have the same weight as that of actual buyers?

Mr. HAM. I think not.

Senator PLATT, of Connecticut. Can you suggest any improvement in the present administrative law by which business would be facilitated and the proper duties be more surely collected? In other words, do you think the administrative act is as perfect as it can be made? And if not, how do you think it might be improved?

Mr. HAM. It does not now occur to me that there are any very radical changes to be recommended in regard to the customs administrative act to make it more efficient. All human agencies are fallible, of course, and it may be that in certain parts of the operation of the act we are not fully effectuating its provisions or so fully as we might do. I do not think of any important amendment to suggest.

Senator PLATT, of Connecticut. Are you familiar with the practice under what is called the ten-day bond?

Mr. HAM. I am not.

Senator PLATT, of Connecticut. An importer gives a bond conditioned that at any time up to ten days after the report of the appraiser to the collector he will, if called upon, deliver the packages which have not been sent to the appraiser's stores, but which have been put in his possession. It is said that if a call is made for those packages he almost uniformly declines to produce them, saying the goods have gone into consumption, and that the bonds are never put in suit?

Mr. HAM. I know that to be true.

Senator PLATT, of Connecticut. And thus the bond becomes a dead letter, absolutely?

Mr. HAM. Yes, sir.

Senator PLATT, of Connecticut. That ought not to be.

Mr. HAM. Decidedly not. It often takes goods out of the control of the appraiser before he has determined what shall be done with them.

Senator PLATT, of Connecticut. He never gets the goods into his possession?

Mr. HAM. No; because the bond is given in place of them.

Senator PLATT, of Connecticut. Can you think of any way in which something can be done whereby the appraiser shall have an opportunity, if he desires, to examine all the goods represented by an invoice? Can you think of any change which could be made in the law by which that could be assured without such serious inconvenience to business that it ought not to be done?

Mr. HAM. You might insist upon the appraiser having all of the goods and holding them until he has had time to pass upon them. But that would be a radical measure.

Senator PLATT, of Connecticut. It is said that then even this large building would be very insufficient to store the goods.

Mr. HAM. I do not see that it would do any good to insist upon putting up the money to cover the whole value of the goods, because if the goods are not forthcoming they could not be appraised afterwards.

Senator PLATT, of Connecticut. Do you think a shorter time might be fixed within which the importer should be required to produce the goods, if requested?

Mr. HAM. I am not informed on that point.

Senator PLATT, of Connecticut. You are not so familiar with the practical details of the appraiser's work?

Mr. HAM. Not in a port like this, which is so enormous. I never had any trouble when I was appraiser in Chicago, because that is practically a small port.

Senator PLATT, of Connecticut. There all the goods are examined without serious inconvenience to the importer?

Mr. HAM. Yes, sir. I have had reappraisements here where I wanted the goods and could not get them. It was claimed that they had gone into consumption. That is an abuse, of course. I have had to give up goods and cases which I was satisfied ought to be advanced because I had not the goods before me.

Senator PLATT, of Connecticut. And could not get them?

Mr. HAM. No, sir. The people who were benefited by it would spirit them away or allege that they had gone into consumption. They would be taken and put into consumption for the purpose of avoiding the proper assessment of duties.

Senator PLATT, of Connecticut. It has been suggested to the committee that if the importer was required to deposit a small sum, say \$5, at the time of making the protest, to follow the determination of his case, it would result in having much fewer protests. What do you think of that proposition?

Mr. HAM. I think it would. I think perhaps the sum named, \$5, would be too large. We have such an enormous number of protests, reaching far into the thousands, twenty or twenty-five thousand a year, that I think perhaps \$5 would be too large a sum. But that is a matter for further examination and investigation, probably.

Senator JONES, of Arkansas. Do you mean that you think it would simply embarrass people who would otherwise be inclined to file a protest?

Mr. HAM. I think it would prevent the filing of frivolous protests, where there is no hope of getting anything, but where they merely take a chance. I do not think litigation ought to be absolutely free. If a man wants to indulge in litigation he should be required to pay something for it. I think it should be a small sum.

Senator PLATT, of Connecticut. Such a deposit would be analogous to the procedure which requires a man upon original suit or upon an appeal to give bond for costs?

Mr. HAM. Yes; that is what it ought to be. It ought to be a very moderate sum.

Senator PLATT, of Connecticut. Not an oppressive sum?

Mr. HAM. No, sir.

Senator JONES, of Arkansas. What additional expense is entailed on the Government by one of these frivolous protests?

Mr. HAM. It is difficult to estimate.

Senator JONES, of Arkansas. Is it \$5?

Mr. HAM. I think it is. The protests have to pass through a great many manipulations; they have to go through a great many hands, clerical and members of the board finally. So it is very difficult to say just what it costs. But I believe a tax of a dollar, even, would reduce very largely the number of protests.

Senator PLATT, of Connecticut. Many of them, you think, are absolutely frivolous?

Mr. HAM. Yes, sir; many of them.

Senator PLATT, of Connecticut. Merely speculative?

Mr. HAM. Yes, sir. There are brokers and lawyers here who live on this business solely, and they want as many cases as they can get, and they stimulate the filing of protests, I think.

Senator PLATT, of Connecticut. Are they usually employed, to be paid for their services whatever the result may be, or do they take the cases on speculation, as we say?

Mr. HAM. I think the cases are taken on contingent fees largely.

Senator PLATT, of Connecticut. Have you any opinion as to whether the consignee, who is a mere agent, ought to have a right to add to the invoice, when he makes an entry, to bring it up to market value?

Mr. HAM. I think he ought not to have the right.

Senator PLATT, of Connecticut. There seems to be a difference of opinion about that point. Will you state why you think he ought not to have the right?

Mr. HAM. The consignee is the party who, if anybody, knows the value of the goods that he is receiving on consignment. The consignee and the consignor are often the same house, and they know when the goods are shipped what is the market price. I do not see why they should have the right, while a purchaser might well have the right to add to make market value when he finds that goods are invoiced at less. They may have advanced considerably. He may want the right then to advance his invoice.

Senator PLATT, of Connecticut. You mean the goods may have advanced between the time of purchase and the time of exportation?

Mr. HAM. Yes.

Senator PLATT, of Connecticut. But the manufacturer, who really consigns goods to himself in this country, knows what their market value is at the time of exportation?

Mr. HAM. Yes, sir, he does. That is the reason why he ought not to be allowed to add to it. His position is different from that of the purchaser.

Senator PLATT, of Connecticut. If he invoices those goods to the consignee at less than the market value, it is presumptive evidence that he has entered upon a course of action by which he intends to cheat the Government?

Mr. HAM. It looks that way.

Senator PLATT, of Connecticut. Some say he ought to have an opportunity for repentance up to the time when he makes his oath to the truth of the invoice, and that the Government would be better off and would collect more money if it gave him that time for repentance and an opportunity to make an honest valuation at the time he makes his entry. But you think not?

Mr. HAM. I think not, and for this reason. The damage done by undervaluation is not simply the loss of revenue to the Government, but it is an outrage upon the honest importers who desire to do an upright business. They are driven from the markets and are compelled to buy goods consigned here at an undervaluation. The honest merchants must either go out of the market or they must buy of the men who have benefited by their own wrongdoing.

Senator PLATT, of Connecticut. All laws for the collection of taxes have to be more or less arbitrary?

Mr. HAM. They must be. There must be summary proceedings to collect taxes.

Senator PLATT, of Connecticut. The law was changed in 1897 so that the penalty attaches if there is an undervaluation of 1 per cent, whereas formerly the penalty only attached if there was an undervaluation found of 10 per cent. How do you think the change works? Do you think the law ought to be continued as it is now or some other arrangement made?

Mr. HAM. I think it ought to be continued as it is now. The old law operated to multiply abuses, I think. When the limitation of penalty was 10 per cent there was a large number of appraisements of goods at 9 and a fraction per cent, just to keep below the penalty line, because of a sort of sympathy for the importer, fearing to do him an injustice. I think that was the general reason. Those advances under 10 per cent existed in the appraiser's department, and they have existed in our cases here. I think they were abuses. I think the penalty now, with the 1 per cent provision, has operated better than ever before.

Senator PLATT, of Connecticut. Is there not just the same feeling, with only a greater degree of fear that you may do an injustice to the importer, when it applies to an undervaluation of 1 per cent?

Mr. HAM. When the penalty was 10 per cent they made it 9 or 9½ per cent to keep under the penalty.

Senator PLATT, of Connecticut. Practically, do appraisers advance articles 1 per cent or 2 per cent?

Mr. HAM. I think not; very rarely.

Senator JONES, of Arkansas. Why not?

Mr. HAM. Because of the belief that in most lines of goods it is hard to find so close a value.

Senator JONES, of Arkansas. Then, under the old 10 per cent arrangement, how could the importer make the nice discrimination as to undervalue his goods 9 or 9½ per cent?

Mr. HAM. The appraiser discovered anything up to 10 per cent. He appraised it at 9.

Senator PLATT, of Connecticut. He thought there was an undervaluation, but he hesitated about going over 10 per cent, because the imposed the penalty?

Mr. HAM. He did not like to impose the penalty.

Senator PLATT, of Connecticut. He gave the benefit of the doubt to the importer?

Mr. HAM. Yes, sir.

Senator PLATT, of Connecticut. I suppose it must be very difficult to come as close as 1 per cent to market value in the markets of the country of exportation?

Mr. HAM. It is pretty difficult to come nearer than 5 per cent.

Senator JONES, of Arkansas. There seems to be difficulty about protecting the Government in cases that are intended to be provided for

under the ten-day bond. When the other nine packages are called in, the importers, as a rule, I understand, offer to bring certified samples, where the goods have gone into consumption, and the belief prevails that those samples in many cases are not true samples. I wish to ask whether it would be practicable, when one case of goods out of ten is ordered to the public stores for examination, to have the Government take samples from the other nine cases before the goods go into the hands of the importer?

Mr. HAM. That would require, for one thing, the opening of all the cases and repacking. I am not, as I told Senator Platt, very much acquainted with the operation of the ten-day law.

Senator PLATT, of Connecticut. If that could be done, there would be no danger in delivering the goods into the hands of the importer?

Mr. HAM. No; that is true. It would be admirable if it could be done.

Senator PLATT, of Connecticut. As to some goods samples could be taken, because there would be only one character of goods in the package. You could take samples in those cases without any trouble at all?

Mr. HAM. Yes, sir.

Senator PLATT, of Connecticut. If that was the law, would it not after a while work in such a way that goods would be packed so that samples could be taken without any great inconvenience to the importer? Would it not result in a different method of packing?

Mr. HAM. Bringing about more care in packing?

Senator PLATT, of Connecticut. Yes, not having so many different goods in one case, for I understand that one of the most common methods of people who want to undervalue is to mix up a great many kinds of goods in one case.

Mr. HAM. Yes; making it difficult to select.

Senator PLATT, of Connecticut. If goods were packed so that a case contained only one kind of goods, there would be no difficulty, or very little difficulty, about samples?

Mr. HAM. Yes.

Senator PLATT, of Connecticut. They take samples of sugar at the wharf. They do not send the hogshead up here. You act on samples?

Mr. HAM. That is true.

Senator PLATT, of Connecticut. The samples are taken at the wharf?

Mr. HAM. Yes.

Senator PLATT, of Connecticut. You have persons whose business it is to take samples at the wharf?

Mr. HAM. Yes, in certain lines. Heavy goods have to be examined on the wharf.

#### STATEMENT OF H. M. SOMERVILLE.

Senator PLATT, of Connecticut. The committee is trying to get the opinions of people who are familiar with the operation of the customs administration act as to whether it is substantially as perfect as it can be made, or whether it has defects or might have added provisions which would make it more certain of operation and at the same time facilitate the general business of the public. If you have any suggestions along that line, we shall be very glad to hear you.

Mr. SOMERVILLE. My duties, as you gentlemen probably know, are confined exclusively to the classification business; that is, to passing on protests which come up before the board on appeal from the collector's decision under section 14 of the customs administrative act. I therefore would not venture to make any suggestion in regard to the reappraisement division.

I understand your question to be whether I have any suggestions to make by which, in my judgment, the system of classification can be improved.

Senator PLATT, of Connecticut. How the administrative features of the law can be improved.

Mr. SOMERVILLE. I think the system as we have it now, under the rules which were adopted by the board and approved by the Treasury Department, is about as thorough as can be got under the present act. I should like to furnish a copy of those rules, so that you can examine them.

The regulations referred to are as follows:

[Department Circular No. 176, Division of Customs.]

REGULATIONS FOR THE GOVERNMENT OF THE BOARD OF GENERAL APPRAISERS AND FOR THE TRANSACTION OF BUSINESS BEFORE THE BOARD.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., October 22, 1897.

*To officers of the customs and all others concerned :*

The following new regulations are hereby established for the organization of the Board of United States General Appraisers, and for the orderly procedure of business before such board:

1. The executive administration of the board shall be committed to the president. He shall preside at all meetings of the General Board, shall have control of the clerical force, and perform the duties and exercise the authority usually devolving upon an executive officer. There shall be a regular meeting of the General Board at 11 o'clock a. m. on the second Saturday of every month. Special meetings of the General Board shall be called by the president at such times as in his judgment the interest of the public service requires, and also whenever so requested by one or more general appraisers. A record shall be kept of the official proceedings of all meetings.

2. Regular hearings of protests on classification shall be held at the port of New York whenever the public interests may require and the condition of the business of the board permits. A docket or calendar of such hearings shall be arranged by the board of classification, and shall include all protests except such as shall have been suspended under the provisions of article 5 of these regulations.

3. Notice of hearings in each case will be mailed, at least two weeks in advance of the date set, to protestants or their attorneys of record, and they may appear, either personally or in writing, and submit their protests for decision, upon the record or upon evidence presented, or may abandon the same, or apply for an order of continuance, or of suspension.

4. Continuances to the next docket may be granted on the ground of the inability of the parties in interest to be present, or by reason of the unavoidable absence of important witnesses, or when more

time is required to obtain further evidence, or for any other reason satisfactory to the board.

5. Suspensions will be granted on written application, describing the protest, and specifying the case on appeal to the courts, and the issue involved, and only when the board is satisfied that such case actually involves the same question, and is being pushed to trial; also that there is no evidence necessary to the determination of the protest that is liable to be impaired through lapse of time. The board may order the production of samples, or other proof of facts at the hearing, and may then suspend the further consideration of the protests.

6. Objections on the part of the counsel for the Treasury Department, or of the importer or his counsel, to the continuance or suspension of protests at hearings will be duly heard and considered by the board. Applications also for the revocation of orders of suspension or continuance of protests, previously made, will be entertained by the board in due course, and, if the reasons presented are deemed sufficient, the protests will be decided, or set for hearing, within the discretion of the board, after due notice to the protestants.

7. All suspended protests will be promptly decided upon the termination of the suits involving the questions at issue, or whenever it appears to the satisfaction of the Board that the trial of the suits involving the issues is being unnecessarily delayed, or whenever the protests involve frivolous claims, or are found to be manifestly defective in any respect.

8. The board will entertain applications for special hearings, whenever urgency can be shown, and in case numerous witnesses are to be examined.

9. (In lieu of article 932, Customs Regulations.) The collector, or officer acting as such, shall, in cases arising under section 14 of the customs administrative act of June 10, 1890, transmit to the Board of General Appraisers, along with the protest, a statement of the reasons which governed him in affirming the assessment of duty, together with any special report which he may have received from the naval officer or from the appraiser, and any other information relevant to the matter in his possession, including a sample of the merchandise whenever practicable.

A receptacle shall be provided at every custom-house for notices of protest, and the date of its reception must be stamped or written upon each; also the date of entry of the merchandise, and of the liquidation, the name of the importing vessel, and serial number of the protest indorsed thereon. A permanent record shall be kept by collectors of customs, or officers acting as such, and by naval officers, and of all protests at their respective ports, with particulars of the successive steps taken in each case.

10. (In lieu of article 1134, Customs Regulations.) General appraisers are authorized by law to exercise joint powers only as boards of three, duly designated by the Secretary of the Treasury; but for the orderly dispatch of business and for the formation of joint reports and recommendations to the Secretary of the Treasury, they will be known as "The General Board of General Appraisers." The Secretary will designate one of their number as president and executive officer of the "General Board," who shall be duly recognized as the medium for all communications to or from such board, and who may designate any member of the General Board to be acting president during his temporary absence.

11. Five general appraisers, of whom the president of the General

Board shall be one, will be designated by the Secretary of the Treasury for the examination and consideration of cases arising under section 14 of the customs-administrative act of June 10, 1890, three of whom (to be known as "the board of classification") will be designated from time to time as a "board of three general appraisers, which shall be on duty at the port of New York," and shall perform the duties devolved upon such a board by said section. The other two general appraisers so designated shall aid in the examination and investigation of classification cases, and in their preparation for decision, and, subject to the approval of the Secretary of the Treasury, may be designated by the president of the General Board to fill vacancies on said "board of classification" occasioned by the temporary absence of any member thereof from official duty, or for other good and sufficient reason, in his discretion. The Secretary of the Treasury will designate boards of three to visit ports other than New York for the purpose of reappraising imported merchandise and for deciding questions arising under said section 14, at such times as the interests of the public service may require.

12. Five general appraisers, of whom the president of the General Board shall be one, will be assigned by the Secretary of the Treasury to the duty of reappraisalment under the provisions of section 13 of the customs-administrative act of June 10, 1890, who will act singly or as members of a board or of boards of three, to be designated from time to time by the Secretary as the exigencies of the public service may require, and also to consider and decide cases arising under the provisions of the "Act to prevent the importation of impure and unwholesome teas," approved March 2, 1897: *Provided*, That no general appraiser shall sit as a member of a board of three which shall review a reappraisalment made by himself.

13. The present customs regulations relating to the matters above specified will continue in full force and effect, except so far as they may be inconsistent with these regulations.

L. J. GAGE,  
*Secretary.*

Mr. SOMERVILLE. Those rules have been followed as nearly as practicable ever since they were promulgated, and in fact are the same rules substantially under which the board has acted since it formulated a system of procedure under the act of June 10, 1890.

Senator PLATT, of Connecticut. I understand that on questions of classification you proceed generally upon the same rules that prevail in the trial of cases in court?

Mr. SOMERVILLE. As nearly as practicable, except that the board have the authority, under the law, to admit evidence which is *ex parte* to a certain extent; that is, they can admit affidavits of parties as to certain collateral issues when courts probably would reject them. That has been the practice of the Treasury Department from the time of its organization.

Senator JONES, of Arkansas. Is that on questions of classification or valuation?

Mr. SOMERVILLE. Classification.

Senator PLATT, of Connecticut. No one who makes claim before your board as to classification of articles has any occasion, so far as you can see, to complain of the way in which the appeal or claim is treated by the board?

Mr. SOMERVILLE. I have not heard of any complaint of that character, and I have talked with a great many importers and a great many lawyers.

Senator PLATT, of Connecticut. You think it is satisfactory. There is an appeal from your decision to the circuit court. I have heard it suggested that it would be fair both to the importer and the Government that your action should be final. What do you think of that?

Mr. SOMERVILLE. I have entertained a different opinion in reference to that point, and for this reason: It is impossible for the board to procure all the testimony which relates to the classification of a given article of imported merchandise or substantially all of it, and I think that an opportunity ought to be given to furnish additional testimony on appeal to the circuit court by either party in order that the whole question may be exhausted.

Senator PLATT, of Connecticut. Why can not your board exhaust it?

Mr. SOMERVILLE. I do not think the force is large enough at this time to justify the giving of sufficient time to exhaust all these subjects as it ought thoroughly to be done.

Senator PLATT, of Connecticut. It was suggested to me by an eminent judge that the experience and life work of members of the board of classification made them really better judges of a case than the judge who is engaged in the trial of other causes might be.

Mr. SOMERVILLE. I think there is great force in that statement. I think that very naturally a person who makes a specialty of a business, a study of it from year to year and every month in the year, would probably be more apt to reach a correct conclusion than one who gave it casual attention only for a few months.

Senator PLATT, of Connecticut. Is it not a fact that when appeals are taken from your board they lie in the court a long while before being reached and considered?

Mr. SOMERVILLE. Yes, sir; that is true.

Senator PLATT, of Connecticut. That is a misfortune all around?

Mr. SOMERVILLE. Yes, sir. I think there is great delay in the circuit courts all through the country, and for the last four years I have called the attention of the Secretary of the Treasury to the fact and suggested to him to speak to the Attorney-General, with a view of having him communicate with the district attorneys in every district, and urge the decision of these cases more promptly.

Senator PLATT, of Connecticut. It is of the utmost importance to the Government and to the importers that the cases shall be speedily settled?

Mr. SOMERVILLE. Undoubtedly.

Senator PLATT, of Connecticut. If the action of the classifying board is wrong, so that you make an importer pay a duty which the court afterwards determines is too high, it involves a large refund by the Government if the case is delayed over a period of years?

Mr. SOMERVILLE. Yes, sir. I might be willing to suggest that the finding of the board on facts be made final, giving the Government or the importer, as the case may be, the right to appeal from the construction of statutes.

Senator PLATT, of Connecticut. I have heard it suggested that there might be an addition to the judicial force in this judicial district and that an additional judge might be appointed, with the understanding that he should devote himself to these cases, at least until the dockets were cleared.

Mr. SOMERVILLE. I think that it would be a capital suggestion. Judge Lacombe, I think, was appointed about the year 1887 in order to dispose of a large accumulation of customs cases, which were so numerous at that time that the Secretary of the Treasury, Mr. Windom, stated in his official report that they would probably not be disposed of in the present generation. There were then 4,000 cases pending under the act of 1883 and prior acts. He has been assigned to the circuit court of appeals bench, and other judges are deciding these cases, first one and then another.

Senator PLATT, of Connecticut. Quite frequently they are tried before a district judge who comes from Connecticut or some other district in New York or from Vermont?

Mr. SOMERVILLE. Yes, sir.

Senator PLATT, of Connecticut. And they are not supposed to be particularly proficient in customs cases—

Mr. SOMERVILLE. That is naturally true, not giving so much attention to them.

Senator PLATT, of Connecticut. As one judge would be if he had that work mainly to do?

Mr. SOMERVILLE. Yes, sir. I made inquiry of the district attorney the other day, and he informed me that of the 4,000 cases which were pending here when the board was organized in 1890 only about 1,000 have been disposed of, and there are about 3,000 jury cases pending there now. We have now suspended before this board awaiting the action of the courts at least 30,000 protests.

Senator JONES, of Arkansas. Depending on the decision of those 3,000 cases?

Mr. SOMERVILLE. Yes, sir.

Senator PLATT, of Connecticut. Cases already appealed?

Mr. SOMERVILLE. Yes, sir.

Senator PLATT, of Connecticut. That is a condition of things which ought not to exist.

Mr. SOMERVILLE. Of course not. I should say about 12,000 protests fall within seven or eight subjects, but some of the cases in the circuit court here have been pending in the circuit court for three or four years.

Senator PLATT, of Connecticut. Did you state how many cases are now pending in the circuit court?

Mr. SOMERVILLE. About 3,000 of the old jury cases, and I am not able to give the number of cases that have gone up from the board. I did not inform myself with reference to that point.

Senator PLATT, of Connecticut. Those are not jury cases under the law of 1890?

Mr. SOMERVILLE. No, sir; they are tried by the judge. That is true of all cases arising under the act of June 10, 1890.

Senator PLATT, of Connecticut. A good many of those cases are pending?

Mr. SOMERVILLE. Oh, yes; a large number. I think if a circuit judge could be appointed who was specially versed in customs cases and who would devote about nine months in the year to deciding them, we would not only be able to dispose of those cases summarily and promptly, but that safer conclusions would unquestionably be reached. As it is, the circuit court devotes only about four weeks in the year to the trial of cases that have been appealed from this board to the court.

Senator JONES, of Arkansas. Do you think it would take a judge nine months in the year to do the business?

Mr. SOMERVILLE. Well, I say nine months. His court ought to be open practically all the time, except in vacation, in order that these cases might be set and tried according to their importance. Some of them are of great importance; others require only an examination of the papers, fifteen minutes or a half hour's discussion, according to the magnitude and character of the case. My own judgment has been that if the classification business were entirely separated from the reappraisement business by having a tribunal organized for that purpose it would be far better. The duties of the appraiser and the duties of the person sitting on the board of classification construing tariff acts require entirely different kinds of talents.

Senator PLATT, of Connecticut. Who constitute the board of classification now?

Mr. SOMERVILLE. It is composed of Colonel Tichenor, Mr. Wilkinson, Mr. Ham, and myself, with some assistance from General Sharpe. The law requires—

Senator PLATT, of Connecticut. I thought the board proper is composed of only three persons?

Mr. SOMERVILLE. I was going to mention that. The law requires that the board shall consist of only three, but necessarily we have to have assistance from some of the parties who can fill vacancies when members are absent on leave or sick or something of that kind. So two of the members of the Board of General Appraisers are assigned in order to aid the board on classification.

Senator PLATT, of Connecticut. Who are the three members who constitute the board proper?

Mr. SOMERVILLE. At this time I am chairman of the board, and Colonel Tichenor and Mr. Wilkinson are on the board.

Senator PLATT, of Connecticut. You were a lawyer of experience and a judge before you came here?

Mr. SOMERVILLE. Yes, sir. I was on the supreme bench of Alabama for ten years, from 1880 to 1890, and resigned in order to accept my appointment on this board.

Senator PLATT, of Connecticut. Colonel Tichenor was not a lawyer, but he had had a very large experience in customs matters?

Mr. SOMERVILLE. He had had considerable experience as Assistant Secretary of the Treasury. Mr. Wilkinson was engaged in the customs business.

Senator PLATT, of Connecticut. But was not a lawyer?

Mr. SOMERVILLE. He was not a lawyer.

Senator PLATT, of Connecticut. Now, suppose there was a reorganization and there was constituted here as now a board on classification, and upon that board were placed men who were supposed to be qualified to perform the duties of a circuit judge. Then could not their decision be made final reasonably well?

Mr. SOMERVILLE. Without any question.

Senator PLATT, of Connecticut. Then you would have a court with three judges, men in whom everybody had as much confidence with reference to their legal ability as they would have in judges of the circuit court, and what harm would be done, in case such a tribunal were constituted, if their decision were made final?

Mr. SOMERVILLE. I do not see any at all, if three judges could dispose of the business. It would come nearer taking six judges, who would sit in sections, like the court of appeals of New York, sometimes holding sessions at Boston, Philadelphia, Chicago, and other large ports, as the board has frequently done.

Senator PLATT, of Connecticut. Even that would be better than to have four or five thousand cases delayed for years in the circuit court.

Mr. SOMERVILLE. Safer conclusions would undoubtedly be reached. There is great complaint of delay in these cases, not before the board, for I have not heard of anything of that sort, but before the courts.

Senator PLATT, of Connecticut. If an important case regarding classification arises in San Francisco, how is it disposed of by the board? Do you go there or is it sent here?

Mr. SOMERVILLE. The board has never been to San Francisco, but the rule has been, when they desire to take testimony in San Francisco on protests, to authorize the general appraiser, who goes there to hold reappraisements, to take the testimony. There is a clause in the customs administrative act that any testimony which the board admits shall constitute a part of the record and shall go into the courts, and the case shall be tried upon that as part of the evidence.

Senator PLATT, of Connecticut. Do you go to Chicago?

Mr. SOMERVILLE. Yes, sir.

Senator PLATT, of Connecticut. As a board?

Mr. SOMERVILLE. The board has been to Chicago and held several sessions, and also to Philadelphia.

Senator PLATT, of Connecticut. Do they sometimes bring cases from Chicago here?

Mr. SOMERVILLE. Yes, sir.

Senator PLATT, of Connecticut. And sometimes the board goes there?

Mr. SOMERVILLE. Nine cases out of ten from Chicago are brought here and tried, but some of the cases are of a trivial character, involving very small amounts, and the importers necessarily suffer for want of proper testimony in the case. Sometimes the Government does, but more frequently the importers, because the rule of the board is to consider the classification made by the collector as correct until it is upset by the testimony produced by the importer. Of course the general rule is that the collector and appraiser give the Government the benefit of the doubt in all these cases.

#### STATEMENT OF THADDEUS S. SHARRETTS.

Senator PLATT, of Connecticut. Mr. Sharretts, you have been a member of the Board of General Appraisers since its organization?

Mr. SHARRETTS. Yes, sir.

Senator PLATT, of Connecticut. The committee will be glad to receive suggestions as to how, if at all, the administrative customs act and the acts which regulate the proceedings in customs matters, may be properly amended, so as to facilitate business on the one hand, and render more certain the collection of proper and legitimate duties. If you have any suggestions to make along that line, we shall be very glad to hear you.

Mr. SHARRETTS. I think section 2 should be amended so that it will read "that all invoices of imported merchandise shall be made out in the currency of the country from whence the importation shall be made," and strike out the words "or if purchased in the currency actually paid therefor." That has proved to be mischievous, from the fact that in a very great number of cases the importers will come to us and say that the currency actually paid was sterling of Great Britain. For instance, take goods purchased in France, in Germany, in Austria, and in various other places. Their account is settled in

London, and the exchange is made on London and the remittance is made in sterling.

We then have to figure what the sterling would be and what the rate of exchange would be, whereas if you take the foreign market value in the currency of the country of exportation it is a very easy matter to determine what those goods cost in the country whence they are exported. It is not the market value sold in the United States, but the market price sold in the country from which they are shipped. Then all we would have to do is to find out what is the market value in the country of exportation. We are not deceived by the statement that they were actually purchased in sterling at a less price. It has never done any good, and I think it is mischievous. Section 3 is all right.

Senator PLATT, of Connecticut. Section 3 provides that the invoice shall be presented to the consul or vice-consul or commercial agent of the district where the goods are purchased?

Mr. SHARRETTS. Yes.

Senator PLATT, of Connecticut. Is it not becoming somewhat common that if goods are purchased in the principal city where the consul-general or the consul resides, the invoices are presented to an official who resides in some other place.

Mr. SHARRETTS. There have been complaints of that kind, Senator, which have been called to my attention. For instance, goods that were shipped from the Sonnenberg district would be consulated at Chemnitz, or vice versa. I understand that that is under the jurisdiction of the Secretary of State, and that he has issued regulations which have checked it to some extent, but they have not cured the defect of the law, if it is a defect. There are some cases where it can not be obviated. For instance, take a party who resides in Austria, and the invoice would require that it should be consulated in the principal city in Austria—in the principal city of the country of exportation—which would probably be Vienna or some other city, and he might have to travel hundreds of miles in order to have the invoice consulated at that place, whereas by crossing over the border into another country, going, say, ten or fifteen miles, he can have it consulated in another district. They should be allowed to do that in order to overcome that difficulty.

Senator JONES, of Arkansas. The law now requires that it shall be done in the district?

Senator PLATT, of Connecticut. In the consular district. So I have understood. I do not know whether or not it is true.

Mr. SHARRETTS. I think the law is broad enough to cover it if they saw fit to stop it.

Senator PLATT, of Connecticut. I have understood that a merchant exporting goods from a town named A, where the principal consular officer resides, would travel to town B and present his invoice to an inferior consular officer resident in the same district, and have it certified to by him.

Mr. SHARRETTS. That is a fact. It has been done.

Senator PLATT, of Connecticut. The presumption is that he wants to get some advantage by doing it.

Mr. SHARRETTS. That is a fact. It has been done very frequently. It has come to my personal knowledge, but I think it is a violation of the law, because the law says it shall be consulated in the consular district whence the goods are shipped.

Senator PLATT, of Connecticut. You think the Secretary of State can issue regulations on that subject?

Mr. SHARRETTS. Under the statute, certainly; just as it exists to-day. There is plenty of law to cover it if he will only enforce the law.

Senator JONES, of Arkansas. If the word "nearest" should be inserted, so as to require that it should be done at the nearest consulate, how would it operate?

Mr. SHARRETTS. There again comes the objection that the nearest consul in that district may be two or three hundred miles away, whereas if he can go into another consular district he may save a great part of the journey.

Senator JONES, of Arkansas. The law now does not allow them to go into another district.

Mr. SHARRETTS. They do it under the regulations of the Department.

Senator JONES, of Arkansas. It is a violation of law.

Mr. SHARRETTS. The whole business would seem to be.

Senator JONES, of Arkansas. The law ought to be changed. They ought not to do things by regulation plainly violative of law, because the law clearly says that it shall be done in the district.

Senator PLATT, of Connecticut. Mr. Sharretts, proceed.

Mr. SHARRETTS. I do not know whether you wish to make any changes in section 4. That has reference to personal baggage accompanying passengers. I am not so familiar with that as are the people in the collector's office. Therefore I have no suggestions to make as to section 4. Section 5 is all right.

Senator PLATT, of Connecticut. Section 6 provides that if a man knowingly makes a false declaration at the time of making his entry, he shall on conviction pay a fine of \$5,000, or be imprisoned not more than two years. In every case of intentional undervaluation is it not true that the person makes a false statement or declaration?

Mr. SHARRETTS. It does not necessarily follow in consigned goods. For instance, he may make it innocently. A man may consign goods to John Doe in the United States at a price on the invoice, and the latter makes entry in accordance with the invoice specifications. The invoice may be fraudulent, and the party who makes the entry in the United States, merely acting as his agent, may not have personal knowledge of the true facts in the case.

Senator JONES, of Arkansas. Such a person would not be likely to be punished, because the law requires that it shall be knowingly done.

Senator PLATT, of Connecticut. Is it not within your experience that all the while people are making false statements when they make their entries?

Mr. SHARRETTS. Do you mean that as an abstract question, or that it is universally done by everybody?

Senator PLATT, of Connecticut. I mean that every day in the year, perhaps, somebody is doing it.

Mr. SHARRETTS. I think any man who undervalues his goods and makes a false entry knowingly is included within the terms of the penalty.

Senator PLATT, of Connecticut. Has anybody ever been prosecuted for it?

Mr. SHARRETTS. No. There is a case now pending in which the party made a declaration before the Board of General Appraisers that he was the purchaser of the goods. It subsequently transpired that

instead of being the purchaser the goods were received by him on consignment. He was the consignee. The case was carried to the court on the ground that he had perjured himself, and it is now pending before the court.

Senator JONES, of Arkansas. Is it a criminal proceeding?

Mr. SHARRETTS. Yes, sir; that is the only court case which has come under my observation.

Senator JONES, of Arkansas. He attempted to avoid the penalty attaching to undervaluation?

Mr. SHARRETTS. He added to his invoice as a purchaser, which he could not do under the law, as it does not allow it to be done by a consignee.

Senator JONES, of Arkansas. That was the purpose of doing it?

Mr. SHARRETTS. That was the ostensible purpose.

Senator PLATT, of Connecticut. Take the first form—"That I am the consignee (importer or agent) of the merchandise." Do you not have cases which show that two invoices are sent?

Mr. SHARRETTS. Certainly.

Senator PLATT, of Connecticut. The consignee making the entry declares that he is "the consignee of the merchandise described in the annexed entry and invoice; that the invoice and bill of lading now presented by me to the collector of —— are the true and only invoice and bill of lading by me received," etc. He makes a deliberately false statement, if he has an invoice different from the one he presents at the custom-house.

Mr. SHARRETTS. He does. It justifies a forfeiture of the goods. There have never been any criminal proceedings to my knowledge under that statute.

Senator PLATT, of Connecticut. Do you know of any reason why there should not be?

Mr. SHARRETTS. There should be a test case made. The party should be prosecuted under the section.

Senator PLATT, of Connecticut. Do you not believe that if violations of the criminal sections of the administrative act were instituted it would go a long way toward preventing undervaluations?

Mr. SHARRETTS. I do. I think the fear of the law has been the safeguard of the Government in a great many cases, and the moment importers are given to understand that they need not fear the extreme penalties of the law they will openly violate the law, where they would not do it otherwise.

Senator JONES, of Arkansas. Have there been many cases where goods have been forfeited for this offense?

Mr. SHARRETTS. The act of 1897 provides that, if the undervaluation exceeds 50 per cent, the goods undervalued shall be subject to forfeiture. There have been a great many forfeitures made under that section.

I should like to state here that, in my opinion, the administrative act is exceedingly good. There are provisions in it which, if carried out as the law says they shall be carried out, could not be better. It is the nonobservance of the law in a great many cases which has given cause for the great trouble that has occurred.

Section 7, as amended, should be amended so that there will be no distinction made between goods sent on consignment and goods purchased.

Senator PLATT, of Connecticut. Give your reasons for that suggestion.

Mr. SHARRETTS. In a great many cases a man will receive his goods direct from Europe on consignment at a price which he knows is not the prevailing market price for those goods on the other side. It has come to my knowledge that consuls have told people on the other side, "If you invoice your goods at such and such a price," notably at the cost of production, plus a certain amount of profit, "that constitutes market value, and they will go through all right." The Board of General Appraisers have upon investigation found that that is not the correct market value. The people who buy their goods regularly in the market instead of getting them at the price at which they are invoiced pay 10, 15, or 20 per cent more. The man who receives his goods on consignment knows that under the law he is not allowed to add to his invoice to bring them up to their true market value.

Senator PLATT, of Connecticut. Do you apply that both to a consignee who is a commission merchant and to a manufacturer's agent?

Mr. SHARRETTS. There might be a distinction drawn between purely a manufacturer's agent and the other man, but still the principle should apply even to a manufacturer's agent, because the manufacturer, acting in good faith, may consign his goods at the actual cost of production, adding to it a profit of 8 per cent, and he suppose that under the law of the United States that is the true market value of the article, whereas a man who lives in the United States and has access to the files of the appraising department of the United States knows that that does not fairly represent market value; and in a great many cases he would add to his invoice voluntarily if under the law he had a right to do so. But not having the right to make that advance, his invoice is presented in the precise form in which it comes to him; and in a great many cases, I know, it is passed as correct. I think the Government loses more than it gains by that provision. I do not see very much that it gains.

Senator PLATT, of Connecticut. It is getting to be a quite common practice for manufacturers abroad to have representatives, or pretended representatives, in New York to whom they consign goods. The representative in New York gets the orders, sends them to the foreign country, and the manufacturer in the foreign country consigns the goods to his representative here to be delivered. That is becoming a common practice?

Mr. SHARRETTS. Yes, sir; it is being done to a very considerable extent.

Senator PLATT, of Connecticut. A large proportion of the undervaluations occur just in such cases?

Mr. SHARRETTS. A great many of them.

Senator PLATT, of Connecticut. If the manufacturer abroad starts out in such cases with the intention of getting his goods through for less than the market value, cheating the Government out of some portion of its duties, ought his representative to be allowed, if he is afraid that he is going to be caught, to advance his invoice?

Mr. SHARRETTS. What decided advantage does the Government gain if he does not advance his invoice? If he does not advance it, he is put to the penalty if he is caught. If he does advance it to the market value, the Government gets all it is entitled to. There are a great many cases in which sales are made in the United States in which, if you take the price at which the goods are sold in the United States, it would be manifestly unjust. A man will import a line of goods. He has a place on Broadway. He does his business precisely the same as other merchants do. His expenses are enormous. When you come

to figure on the price at which he sells those goods in the United States, it includes expenses in the United States, which will sometimes equal 12½ to 15 per cent.

Senator PLATT, of Connecticut. You think the Government would get more money if the consignee were allowed to advance?

Mr. SHARRETTS. I do, sir.

Senator PLATT, of Connecticut. You think the Government would get more money if the consignee, with the fear of being caught, were allowed to advance his goods to the true market value and pay the full duty in the first instance?

Mr. SHARRETTS. That is my whole point. It is not intended as an advantage or benefit to the consignee or consignor; but it is in the interest of the Government, and good government, that he should be allowed to make an advance, when as an honest man he knows that undervaluation has been made, and that he should not be forced to make a false entry.

Senator JONES, of Arkansas. That he should be allowed under the law to tell the truth?

Mr. SHARRETTS. Yes, sir. If he does it, no penalty is exacted. If he does not, he is clearly amenable to the law.

Senator PLATT, of Connecticut. The Government would simply condone the original intent.

Mr. SHARRETTS. He may not be responsible for the original intent. You can not make a distinction between those who receive their goods honestly and fairly and those where there is intended fraud; but I believe honestly that the intended fraud is the exception and not the general rule.

Section 7 provides that "if the appraised value of any merchandise shall exceed the value declared in the entry by more than 50 per cent, except when arising from a manifest clerical error," etc. It also requires that if the goods shall be undervalued 1 per cent or more the penalty shall apply. I think the line should be advanced from 1 per cent to at least 5 per cent. There are hundreds and hundreds of cases in which men will honestly go over there, and there will be a difference of at least 5 per cent in their purchasing capacity. It will vary that much.

Mills & Gibb and Arnold, Constable & Co., may go into the market and buy 5 per cent cheaper than someone else. When a man invoices his goods he has no earthly way of telling what his competitor pays, and he invoices at the price at which he buys them. Some other man will go over and buy goods equally honestly and he will have to pay 3 or 4 per cent more. The result is that in a great many cases the Government loses revenue, because the appraising officer knows that all he has to do is to put the goods up to the true market value and the importer pays duty on the market value, but when you put a penalty on Mills & Gibb, or Arnold, Constable & Co., or Sloane, or H. B. Claffin they are very much incensed. They do not know what they are going to do. They do not want the penalty put on. It is a disgrace; they do not want it; and the result is it is not put on such firms.

Senator PLATT, of Connecticut. Whereas, if the penalty applied only after a 5 per cent undervaluation if you found 2 per cent undervaluation, you would advance the goods, and the Government would get the increased duty?

Mr. SHARRETTS. The Government would get the entire revenue. Before this law was changed I had many cases with these very gen-

tlemen in which the goods were advanced to that point. They would come before me and I would explain the situation, and they would never say a word. It was entirely satisfactory. You can never convince a man of that character who is put to a penalty that he is not disgraced by the transaction.

Senator PLATT, of Connecticut. You do not think that a limit of 5 per cent upon which the penalty should be assessed would result in the loss of any money to the Government?

Mr. SHARRETTS. I think the Government would gain by it. I think the number of cases in which the advance would be made would more than offset the additional duty the Government gets under that section.

Senator PLATT, of Connecticut. I suppose it must be a question of doubt very often in endeavoring to ascertain the market value by 1 per cent.

Mr. SHARRETTS. No man can do it within 1 per cent. He can not do it on flour. You can not do it on the most staple article known. Take cotton, which is quoted in the open markets of the world; you can not tell within 1 per cent what the market value is on any particular day. I do not think it is possible to do it.

Senator PLATT, of Connecticut. You think 5 per cent would be better than 10.

Mr. SHARRETTS. I think 5 will be satisfactory.

Senator PLATT, of Connecticut. You think that with 10 per cent there is a temptation to undervalue, whereas with 5 per cent there is not much temptation?

Mr. SHARRETTS. Exactly. If a man undervalues his goods 5 per cent, or 6 or 7 per cent, and it is allowed to go through, he is doing injustice to his competitors, whereas if it is 5 per cent it is so small a margin that it is not perceptible. I should say that 5 per cent would be a fair line of demarcation.

Senator PLATT, of Connecticut. I wish to ask you about the operation of what is called the ten-day bond. Can you suggest any improvement in that respect? First, is the provision about the ten-day bond a dead letter or not?

Mr. SHARRETTS. It is unquestionably, as I understand it. I have never heard of a case in which the bond has been sued on.

Senator PLATT, of Connecticut. If you call for the goods which have been delivered to an importer under the bond, as a general practice do you get them?

Mr. SHARRETTS. In many, many cases I have made requests that the remainder of the goods on the invoice should be returned, and the answer has come back that the goods were delivered to the importer, and the importer states that he can not even give us samples, because he has not retained them. It is not an uncommon occurrence at all. It is a very frequent thing.

Senator PLATT, of Connecticut. One package in the invoice out of 10 goes to this office for examination; possibly more. You find in the one package some goods which are undervalued, and you advance them. Can you advance the whole invoice at the same time?

Mr. SHARRETTS. We can not. We can only pass upon the goods specified in the appeal.

Senator PLATT, of Connecticut. Can you advance all the other goods on the invoice which are so described that you are satisfied they are identical with the goods which you find undervalued in the one package?

Mr. SHARRETTS. We can not.

Senator PLATT, of Connecticut. Speak clearly and distinctly about that, because there seems to be a misapprehension on that point.

Mr. SHARRETTS. The board, in the early stages of its history in 1890 and 1891, had before it a case just such as you have described. The local appraiser had advanced certain items on the invoice. Upon investigation the board determined that other goods of a similar nature on that invoice, were also undervalued. We advanced the entire invoice, or we advanced the other goods which the evidence tended to show were undervalued. It was held in that case that the board did not have original jurisdiction; that we had to confine ourselves to the appraisement of goods which the local appraiser had passed upon, and with which the importer had expressed his dissatisfaction.

Senator PLATT, of Connecticut. Could the local appraiser have advanced all the goods in the entire invoice which he thought were identical with the goods in the one package which he found to be undervalued?

Mr. SHARRETTS. The local appraiser has been supposed to have the right to advance any goods on the invoice, but the courts have decided that the appraising officer had no right to appraise merchandise which he did not have before him, which he did not see, or of which he had no samples.

Senator PLATT, of Connecticut. Suppose he had the legal right to advance all the goods on the invoice which were so specifically described that he could say they were identical with the goods he found to be undervalued. Is an invoice so made out that he can say that goods in the cases which he does not see are identical with the goods in the case which he does see?

Mr. SHARRETTS. It would be exceptional.

Senator JONES, of Arkansas. Could he do so if the invoice on its face showed by marks and numbers that the goods were identical?

Mr. SHARRETTS. Then he could advance satisfactorily, but an invoice may contain 100 different items. The goods may be composed of silk and cotton, or cotton and wool, or they may be mixed goods. The case he receives may be entirely different from the others, and the collector in designating the particular case that is going to the appraising office has no knowledge of the case he is sending up. The result is there is a dissimilarity between the goods he is appraising and the goods delivered to the importer.

Senator PLATT, of Connecticut. Practically, is there an advance made upon any of the goods except those contained in the package which he has examined?

Mr. SHARRETTS. I should say no to that question.

Senator PLATT, of Connecticut. If you find certain goods undervalued in that package, there is a sort of presumption that goods of different classes in the other packages may have been undervalued. That may be true if he has undertaken to undervalue in one instance.

Mr. SHARRETTS. That is a very fair inference to draw.

Senator PLATT, of Connecticut. That can not be reached under any circumstances?

Mr. SHARRETTS. No, sir.

Senator PLATT, of Connecticut. Either on the question or value or of classification?

Mr. SHARRETTS. No, sir; because he has to depend upon the statement of the importer himself, and if he is deliberately undervaluing

the goods or deceiving the collector, he would not hesitate to deceive us. The way to overcome that is to see that the local appraiser gets the remaining cases when he calls for them, or have the penalty so severe as to stop it.

Senator PLATT, of Connecticut. And have a penalty that can be enforced?

Mr. SHARRETTS. And have a penalty that can be enforced. They have never sued on the bond because they have to show fraud, and that is almost impossible in those cases.

Senator PLATT, of Connecticut. Do you think undervalued goods escape, to any considerable extent, by means of the practice under the ten-day bond?

Mr. SHARRETTS. To a very large extent.

Senator PLATT, of Connecticut. Do you think it constitutes the largest leak, so to speak, at the present time?

Mr. SHARRETTS. I think it does. I will illustrate that case. A man has ten cases. One case goes to the local appraiser, and the goods in that one case are advanced 20 per cent. He pays the penalty of 20 per cent on the one case, and the other nine cases may go through without any advance whatever. The result is that the entire invoice is subject to a penalty of only 2 per cent, whereas the undervaluation—

Senator PLATT, of Connecticut. It is not subject to any penalty at all.

Mr. SHARRETTS. We will assume that the proportionate penalty on the whole invoice is 2 per cent, whereas the entire ten cases are undervalued originally probably 20 per cent. He is the gainer in the long run, although he has paid a penalty, for notwithstanding that it amounted to considerable on the one case, it did not offset what he gained on the other nine cases.

Senator PLATT, of Connecticut. Do you think limiting the time in which the appraiser might call for the goods would amount to anything?

Mr. SHARRETTS. I do not.

Senator PLATT, of Connecticut. He may call for the goods—

Mr. SHARRETTS. As soon as he pleases.

Senator PLATT, of Connecticut. He may call for the goods immediately, or they may be called for at any time within ten days after his final report?

Mr. SHARRETTS. Yes, sir.

Senator PLATT, of Connecticut. Suppose the time were limited to ten days from the time he receives them, or eight days?

Mr. SHARRETTS. I do not think it would affect the result. I think the importers would take occasion, the very moment they get the goods, to ship them away and say they were in consumption; and the law would be just as inoperative then as it is now.

Senator JONES, of Arkansas. In all cases where there is deliberate undervaluation?

Mr. SHARRETTS. I am speaking of such cases only.

Senator JONES, of Arkansas. You suggested a while ago that the only remedy is to take such steps as to have a penalty attached which can be collected. That looks to such a condition of things as would require the merchant to keep the goods on hand until the expiration of the time.

Mr. SHARRETTS. I should say so, but the time limit could be reduced to three days.

Senator JONES, of Arkansas. That would materially interfere with commerce in many respects.

Mr. SHARRETTS. It would temporarily. If every sale in the United States were made subject to delivery at a certain time, and everybody did the same thing, it would soon become known. It would merely be an inconvenience temporarily.

Senator JONES, of Arkansas. From the time the ship comes in, it is said it takes ten or fifteen days for the examination of the one package in the custom-house. They may add ten days; and then additional time would be required for this examination. So you can say it would take three weeks after the goods came in before a man would be safe in allowing them to go into consumption.

Mr. SHARRETTS. That would apply providing every man's goods were going to be advanced, but 95 per cent of the goods that come into the United States will not be subject to the annoyance. An importer has no fear of the consequences, having an honest invoice, and he ships his goods away.

Senator JONES, of Arkansas. Suppose, then, it turns out that he was mistaken about it, and he has shipped his goods out? Therefore there is a penalty.

Mr. SHARRETTS. You can not have a law which will not occasionally hurt somebody. The purpose is to stop undervaluation. Undervaluation exists, and I do not object to making any harsh law that will curtail it as much as possible.

Senator JONES, of Arkansas. If you could devise some means to enable honest importers to avail themselves of their goods as soon as they come in, and at the same time protect the Treasury, it would be an ideal condition.

Mr. SHARRETTS. That can not be done.

Senator PLATT, of Connecticut. Why can not the goods be sampled before they are delivered to the importer?

Mr. SHARRETTS. They could not be, because the local appraiser would have to open every case.

Senator PLATT, of Connecticut. Some goods do not go to the local appraiser, only samples; sugar, for instance.

Mr. SHARRETTS. The intention of the law is not to crowd the public stores. Therefore it says that one case out of ten will represent the goods. In a great many cases it does.

Senator JONES, of Arkansas. There is a pretense of getting samples by merchants.

Mr. SHARRETTS. In a great many cases.

Senator JONES, of Arkansas. Why could not samples be taken by Government officers at some point between the time the goods came out of the ship and the time the importer was allowed to take them, so that the Government would know that it had honest samples from the other nine cases instead of having to send to the importer to furnish samples?

Mr. SHARRETTS. It would be absolutely impossible to take samples from every case that comes into port.

Senator PLATT, of Connecticut. The importer claims to do it; he sends up verified samples.

Mr. SHARRETTS. There are several thousand importers and each has five or six clerks. If the Government should employ 10,000 hands to do it it could probably be done as well as the importers do it. We have not the force in the appraiser's stores to begin to take samples

out of all the cases which come into New York. This work now is distributed among a great many importers.

Senator JONES, of Arkansas. Do you think it would require a material increase of the force of the custom-house for the custom-house officials to take samples of the nine cases of goods that are not sent to the general stores?

Mr. SHARRETTS. I am absolutely certain they could not begin to cope with the business. The force would not only have to be materially increased, but doubled, to make an examination of all goods that come to the port of New York.

Senator PLATT, of Connecticut. You can not bring them into the public stores because you have not the room?

Mr. SHARRETTS. No, sir.

Senator JONES, of Arkansas. You probably misunderstand my idea about the matter. You said "to make an examination." My proposition is not to have an examination of the goods, but to have a Government officer to take samples of the goods, so that the examination may be made by sample.

Mr. SHARRETTS. I understand your proposition, Senator. In the first place, when goods come in they would have to be put into some safe storage warehouse or some room where they can be opened. They could not be opened on the wharf. Take fine fabrics, textile fabrics particularly, and if you undertook to break open the cases on the wharf for examination there would be great destruction. You would have to have a special session of Congress in order to change the law quickly enough. You must have room where the cases can be opened. That would require space and labor, and it is that labor and space which, I say, make it impracticable. I do not believe it would be practicable. If it could be done, I suppose it would overcome the difficulty to a very considerable extent. There are a great many goods that can not be sampled; for instance, we will take wearing apparel, finished articles, such as tidies.

Senator PLATT, of Connecticut. Laces?

Mr. SHARRETTS. If a responsible party is to go down there and take a sample out of every case it would be an enormous work.

Senator PLATT, of Connecticut. You could not sample diamonds.

Mr. SHARRETTS. A very large number of articles could not be sampled.

Senator JONES, of Arkansas. But there are a great many that could be sampled.

Mr. SHARRETTS. There is no doubt of it.

Senator PLATT, of Connecticut. What value do you attach to the consular certificate in making up your estimate of market value?

Mr. SHARRETTS. Do you refer to just the simple form? None whatever. It is a perfunctory act, as a general thing, on the part of the consul.

Senator PLATT, of Connecticut. Do you think an improvement in the administration of the consular system would be of practical benefit; that is, if the consuls were instructed to make examinations there to determine values?

Mr. SHARRETTS. I think it would be of very great assistance to the appraising officer if the consuls would make an intelligent investigation at the point of shipment and report the facts as they find them to the appraising officers.

Senator PLATT, of Connecticut. In some instances they send what are called consular samples?

Mr. SHARRETTS. Yes, sir.

Senator PLATT, of Connecticut. How do they get those samples?

Mr. SHARRETTS. The importer of the goods comes to the consul and says, "I wish to make a shipment of certain goods." He then, under the law, provides the consul with a sample card. It applies only to textile fabrics. He produces a card which contains a representative sample of each item on his invoice.

Senator PLATT, of Connecticut. He says he does?

Mr. SHARRETTS. He says he does.

Senator PLATT, of Connecticut. But the consul does not examine the goods to see if they correspond?

Mr. SHARRETTS. No, sir. He simply takes the samples which the exporter furnishes as being representative samples and forwards them to the collector of the port of destination.

Senator PLATT, of Connecticut. In case of deliberate attempt to undervalue, the consul simply gets representatives of what the exporter says is in the case?

Mr. SHARRETTS. That is right. He may give him a sample made entirely of cotton and say, "That case contains cotton goods." On examination the one case may contain cotton goods and the other nine cases woolen goods. If an investigation were made by the consul on the other side, and he should send representative samples, it would overcome the difficulty in great measure, because we could appraise the goods on the consular samples.

Senator PLATT, of Connecticut. You can not do it now?

Mr. SHARRETTS. No, sir; that is impossible.

Senator JONES, of Arkansas. When one-tenth of the goods are ordered in for examination, the goods are kept by the examiner until he gets through with the examination?

Mr. SHARRETTS. Yes, sir.

Senator JONES, of Arkansas. How much time does that take?

Mr. SHARRETTS. It varies. If it is a very busy season and the examiner has a good many goods on the floor, I should say he should allow four or five days' time.

Senator PLATT, of Connecticut. It is said that a single package may contain goods which have to go to several different divisions.

Mr. SHARRETTS. Four or five divisions. Wool goes to one, cotton goes to another division, and silk goes to another.

Senator JONES, of Arkansas. Who orders the goods in?

Mr. SHARRETTS. The deputy collector designates on the invoice the particular package.

Senator JONES, of Arkansas. He may order in all the goods if he chooses?

Mr. SHARRETTS. Yes, sir; if he sees fit.

Senator JONES, of Arkansas. I think one of the purposes of the ten-day bond is to enable the merchant to get possession of his goods earlier than he could get them if he had to wait until the examination is completed?

Mr. SHARRETTS. Yes, sir.

Senator JONES, of Arkansas. Could not that purpose be facilitated if the collector in special cases should direct that all of the goods be sent in, but that only a limited number should be kept for actual examination, and samples should be taken from the others, and that the goods should then be returned to the importer?

Mr. SHARRETTS. I am afraid that would lead to great complaint on

the part of some merchant, that all of his goods were ordered in while his competitor's goods were not.

Senator JONES, of Arkansas. Is not that the case now?

Mr. SHARRETTS. It is, and it would be magnified to such an extent that I do not know what the result would be. It would be a very dangerous thing.

Senator PLATT, of Connecticut. We have been informed that the practice is, where you find an undervaluation and you advance the goods, that on the next importation by the same party all the goods are ordered in.

Mr. SHARRETTS. That is not a frequent occurrence, but it happens. I have known cases, especially on cutlery, where all of the goods shipped by a party were ordered to the appraiser's store for examination. But it was only after repeated advances were made by the local appraiser, which indicated that the party was a chronic undervaluer, that his goods were treated in that way.

Senator PLATT, of Connecticut. It is claimed that no harm is done by allowing the goods to go into consumption beyond the fact that the first importation may have contained undervalued goods, because, if they find a man is undervaluing, all of the next importation is ordered in. That is not true except in special cases.

Mr. SHARRETTS. In special cases.

Senator PLATT, of Connecticut. Suppose it were true; suppose that were done. Assume that you find an undervaluation which you are satisfied was not unintentional, but intentional, and suppose the very next time that importer had a shipment come here the goods were all ordered into the custom-house; would not that stop it?

Mr. SHARRETTS. It would, but that would necessitate the board of appraisers determining in each case whether or not there was an intentional undervaluation, and that is an absolute impossibility.

Senator PLATT, of Connecticut. You can guess pretty well.

Mr. SHARRETTS. I do not know. If the discretion were left with me, I should not hesitate to exercise it. I would exercise it in a great many cases that come before me personally. If it was left discretionary with the local appraiser, I do not know whether it would be advantageous or not. Great complaints of favoritism are made by importers; but I do not know anything about it. They do not come under my personal observation. I only know that complaints are made. If the appraising officer was left to determine, he could decide that all of a man's goods should go into the public stores, and if he had a malicious spite against anyone he could stop him and drive him out of business.

Senator PLATT, of Connecticut. You do not assume that a public officer has malice?

Mr. SHARRETTS. No; I do not assume it. I do not say it would occur, but I am only stating what might occur. It is a purely hypothetical case.

Senator PLATT, of Connecticut. The only way in which you think there could be a remedy is to make the sum in the bond proportioned to the amount of the estimated duty, and that, in case of failure of condition, the sum named in the bond should be taken as liquidated damages?

Mr. SHARRETTS. That is right. That is the proposition exactly.

Senator PLATT, of Connecticut. Then you think the bond could be enforced?

Mr. SHARRETTS. It could be, undoubtedly.

Senator PLATT, of Connecticut. The fear that a man might incur the penalty for shipping his goods away would remedy the difficulty?

Mr. SHARRETTS. I think so.

Senator PLATT, of Connecticut. You are not on the board of classification now?

Mr. SHARRETTS. I am not.

Senator PLATT, of Connecticut. You have been?

Mr. SHARRETTS. Yes, sir.

Senator PLATT, of Connecticut. You are familiar with the work of the board?

Mr. SHARRETTS. Yes, sir; very.

Senator PLATT, of Connecticut. There are a great number of appeals in court?

Mr. SHARRETTS. Yes, sir.

Senator PLATT, of Connecticut. Should not some way be devised by which the appeals from the board of classification can be disposed of more rapidly?

Mr. SHARRETTS. The purpose of the law which created a certain number of circuit judges, circuit courts of appeal, was to expedite that business, and to give the circuit judges an opportunity to dispose of those cases more rapidly and to relieve the Supreme Court of the United States. Up to the present time it has not accomplished the purpose of the law, and I do not know of anything that can be done except to increase the number of judges.

Senator PLATT, of Connecticut. With the understanding that one judge is to devote his time to that class of cases pretty much. That could not be stated in the law, but the judges could designate one of their number to take up those cases and dispose of them.

Mr. SHARRETTS. Yes, sir. If the law could be framed so as to increase the number of judges, and then the terms of the law should state that at each term of the court one judge should be designated whose entire time should be devoted to the determination of appraisers' cases, I think it would expedite matters.

Senator PLATT, of Connecticut. Is it not a practical failure of administration and justice to have in the port of New York several thousand cases of appeals pending from year to year?

Mr. SHARRETTS. Yes, sir.

Senator PLATT, of Connecticut. What do you say to this proposition: That there should be a new board created, the members of which should have only classification cases before them; in other words, that the ascertainment of values and the classification should not be merged in one board of general appraisers, but that there should be a board which should simply pass on classifications?

Mr. SHARRETTS. I do not think that would expedite the business at all, because we are not delayed. It is the courts which are clogged with work.

Senator PLATT, of Connecticut. If their decision were made final, it would end it.

Mr. SHARRETTS. If the decision of the classifying board were made final, of course, it would become a court itself.

Senator PLATT, of Connecticut. Suppose we had a board, consisting of three officers, to whom the classifications should go on appeal and for final decision, and those persons should be as qualified and as competent as the judges of the circuit court or the court of appeals. Is there any reason why the decision should not be final?

Mr. SHARRETTS. I do not think the decision of cases in which the

determination of tariff rates is involved should be made final and conclusive by any one tribunal. I think there should be an appellate power to review. The present law, as it exists, has given the most unlimited satisfaction, both to importers, and, as a general thing, to the leading manufacturers.

Senator PLATT, of Connecticut. Is it not true that members of the classification board may have an experience which fits them to determine such cases better than a district judge who may be called in to hold a session of a circuit court here in New York to try the case on appeal?

Mr. SHARRETT. In a great many cases that may be true, but I think the law should be made to conform very largely to the wishes and inclinations of the parties who are interested and who are subject to its terms. I do not believe any tribunal should be created which should have the power to settle these cases finally without an appeal from their decision. On all questions of law there should be an appellate tribunal.

Senator PLATT, of Connecticut. That underlies the whole system of jurisprudence.

Mr. SHARRETT. It does; and you would make a very dangerous change when you attempted it. Personally I am certainly opposed to it.

#### STATEMENT OF WILBUR F. LUNT.

Senator PLATT, of Connecticut. How long have you been a member of the Board of General Appraisers?

Mr. LUNT. Since January, 1891.

Senator PLATT, of Connecticut. Since its organization?

Mr. LUNT. No, sir; six months, or nearly six months, afterward.

Senator PLATT, of Connecticut. What were you before that?

Mr. LUNT. I was a practicing attorney at law.

Senator PLATT, of Connecticut. Had you had any experience in customs matters before that time?

Mr. LUNT. I was United States attorney for Maine for about two terms—eight years.

Senator PLATT, of Connecticut. You had never held any official position in the customs service?

Mr. LUNT. No, sir; but as United States attorney I had a great many prosecutions under the revenue laws, because Maine is a frontier State.

Senator PLATT, of Connecticut. If, in the light of your experience, you think of any provisions by which the customs administrative act or the procedure under the Revised Statutes for the collection of duties may be improved, I should like to have you state them.

Mr. LUNT. I formerly submitted to the Ways and Means Committee of the House at their request a draft of my views.

Senator PLATT, of Connecticut. When was that—in 1897? Was it when the Dingley bill was under consideration?

Mr. LUNT. It was previous to the tariff act which made this amendment.

Senator PLATT, of Connecticut. Do you mean previous to the amendment of section 7 by the Dingley tariff act, as it is called?

Mr. LUNT. Yes, sir; on a previous hearing before the Ways and Means Committee.

Senator PLATT, of Connecticut. Was it published?

Mr. LUNT. It was printed, but the draft of the bill which I submitted I never have seen in print.

Senator PLATT, of Connecticut. Have you a copy of it?

Mr. LUNT. I have not; at least, if I have I do not know where to find it. It was sent to Washington.

Senator PLATT, of Connecticut. It may have been kept with the papers of the committee?

Mr. LUNT. Undoubtedly.

Senator PLATT, of Connecticut. It was not printed with the testimony taken before the committee, so far as your recollection goes?

Mr. LUNT. They adopted some of the language, but they did not take the essence of it. As a consequence, the provision which appears in the Dingley Act does not embody my views.

Under the administrative act, as it was originally passed, it was provided that whenever the undervaluation on an invoice of merchandise exceeded 10 per cent, there should be an additional duty of 2 per cent for every 1 per cent of undervaluation, and when such undervaluation exceeded 40 per cent, the merchandise might be seized—not should be, but might. At the hearing before the Ways and Means Committee I was requested to give my views, and I then advocated that the 2 per cent duty should not attach until the undervaluation exceeded 10 per cent, as was then provided by law, but that when the undervaluation exceeded 50 per cent, the merchandise should be seized. That would make the law self-enforcing. If a man's goods were undervalued 50 per cent, and an additional duty of 2 per cent for every 1 per cent undervaluation were imposed, it would be equivalent, in the amount of the duties, to an actual forfeiture of the goods.

It is well known by those who are called upon to enforce forfeitures in court after a seizure has been made that the legal evidence which the Government would have to furnish in order to secure a forfeiture in probably four hundred and ninety cases out of five hundred can only be obtained in a foreign country, and therefore the Government is substantially debarred from enforcing its forfeiture if the burden of proof is placed upon it in the first instance. Therefore I recommended that when the appraised value exceeded 50 per cent of the invoice value, the appraisal should be presumptive evidence of fraud and put the burden of proof upon the claimant to show the absence of fraud.

Here is where I think there is a defect in the law. Instead of providing that 2 per cent shall be imposed for every 1 per cent when the undervaluation exceeded 10 per cent, the act provided, when it was published, that 1 per cent should be imposed for every 1 per cent of undervaluation, and that 1 per cent begins at the inception of the undervaluation, whatever it may be, whether it is 1 per cent or 2 per cent. It is not limited. It also provides that when the undervaluation exceeds 50 per cent the goods shall be seized and the appraisal shall be presumptive evidence, in cases where goods are actually undervalued 50 per cent, that there was fraud. It seems to me it was unscientific, and it was putting a burden upon the Government which ought not to be there. If the penalty had remained as it was before—at 2 per cent—there would not be any object for a party to try his case anyway, for the additional duties would amount to 100 per cent.

What is the consequence? I am informed that the district judge of the United States at New York has within a comparatively recent period decided that when the Government seizes goods for under-

valuation, alleging fraud, it waives the duties and can only have the goods. If that is true, then if 2 per cent for every 1 per cent were imposed it would give the Government the goods without compelling them to litigate the case in court; or there would be no object for the importer to contest it. For instance, if, now, the duties are waived by the Government—if that decision is to stand—then the importer will go into court and litigate the case. If the Government does not establish the fraud, or at least if the importer establishes that there was no fraud, he would seem to get his goods. If the duties have been waived, I do not know what the consequence will be, but it occurs to me that the Government is out the duties all around and the man gets his goods for nothing.

Senator PLATT, of Connecticut. Is it your understanding that the Government waives the duties and the penalty?

Mr. LUNT. I understand so.

Senator PLATT, of Connecticut. Who decided that case?

Mr. LUNT. Judge Brown.

Senator JONES, of Arkansas. On what theory?

Mr. LUNT. I have myself, as United States attorney, recovered judgment against a party for the value of goods which were undervalued; that is, as a forfeiture, and a separate and distinct provision in the judgment for the duties, which were to be paid in gold; and executions were issued by the court to collect currency for the forfeiture, and gold for the duties. I understand all the decisions have held, from the inception of the Government, that the duties were the personal liabilities of the importer. I do not understand where we are going if the decision of Judge Brown is to stand.

Senator PLATT, of Connecticut. His theory, I suppose, is that the Government has only one of two remedies which it can pursue. If it elects to pursue one, it waives the other.

Mr. LUNT. I suppose so.

Senator PLATT, of Connecticut. Is there anything else you wish to suggest?

Mr. LUNT. If I were asked as to my opinion generally, I should say that the condition under which the Government and importers are compelled to ascertain what the law is in tariff matters is subject to great criticism.

Senator PLATT, of Connecticut. In what respect?

Mr. LUNT. In the diversity of decisions made by different tribunals before whom such cases are heard, and in the excessively long delays which elapse between the time the goods are imported and the time when final decisions are made.

Senator PLATT, of Connecticut. The cases that go to court are all appeals relating to classifications?

Mr. LUNT. Yes, sir. Under all the tariffs which have been in vogue since I came on the stage nobody has known what the law was during the life of the tariff.

Senator PLATT, of Connecticut. It is said there are 3,000 cases pending under the law of 1883. Do you know whether or not that is true?

Mr. LUNT. No; I have no means of knowing. I have heard there were a great many cases in the circuit courts.

Senator PLATT, of Connecticut. How do you think the delay can be remedied?

Mr. LUNT. It seems to me there ought to be a special tribunal to try such cases, and if it was deemed necessary that their decisions should be reviewed by some other tribunal, but that it should be only

one other tribunal. At the present time a case is first heard before a board of general appraisers. It then goes to the circuit court, and the circuit court often reverses the board. It then goes to the circuit court of appeals, and that court often reverses the circuit court. Then the case goes to the Supreme Court, and in most cases they affirm the board.

Senator PLATT, of Connecticut. It goes to the Supreme Court on a certification that there is a legal question involved?

Mr. LUNT. Either that or upon certiorari, that there has been some error in the record. As it is now a board of general appraisers can not undertake to follow the decisions of the courts; that is, the subordinate courts, and oftentimes those are the only decisions which have been made. If we can not tell what the law is, the tariff can not be administered upon any fixed principle. I could cite cases, if it was necessary, to show you what I mean.

Senator PLATT, of Connecticut. The Board of General Appraisers has two functions, one to ascertain values and the other to determine classifications for the purpose of fixing rates. Do you think it would be better to have two boards, one board especially for classification work, with one appeal from that board? You would like the one appeal, I suppose.

Mr. LUNT. Probably. It amounts to that now, because a number of the general appraisers, under the present régime, are assigned to reappraisement work, and some of the gentlemen who are in that division have practically never done any classification work.

Senator PLATT, of Connecticut. Does the board of classification do reappraisement?

Mr. LUNT. Under the present arrangements, which have existed during the past year, they do not have anything to do with reappraisement. Once in a while a general appraiser may take a case off somewhere in a distant port, but practically none. They attend exclusively to classification work.

Senator PLATT, of Connecticut. You think the decision of the first appeal, from the board of classification to this court, which might be taken, ought to be final?

Mr. LUNT. Yes, sir; I think so.

Senator PLATT, of Connecticut. And that the courts ought to have judges enough so that those cases could be quickly disposed of?

Mr. LUNT. They ought to have judges enough, and judges enough of the right kind. It is perhaps assuming something to criticise, but judges all of whose days have been devoted to ordinary civil court work, and who have had nothing to do with the revenue law and the points of fact which are constantly arising in revenue laws, are not expected to have and they do not exercise, in my judgment, that judicial knowledge which is requisite in order that many of these cases may be properly decided. A man needs to know something more than law. He needs to know a great deal of commerce, a good deal of science, and a good deal of manufacturing.

Senator PLATT, of Connecticut. Take a question of coal-tar products. Is it possible for a judge who has had no experience in that line to decide intelligently on questions which arise on the classification of articles of that sort—in some cases, I mean?

Mr. LUNT. In some cases I think he is bound to be misled. It is necessary that he should have some knowledge of chemistry, as well as a good deal of other knowledge which I can not designate under a special head.

Senator PLATT, of Connecticut. Are not those cases very intricate?

Mr. LUNT. They would be to men who had not had anything to do with them, because they are made up of long names and technical terms. Such a case looks more formidable than it really is, and it is more puzzling than it ought to be if a man is informed to some extent in chemistry. I do not know of any class of merchandise that requires such careful scrutiny of the claims of importers as coal-tar products, colors, dyes, and preparations. They are imported by a few persons who represent manufacturers in Germany, and a general appraiser has to search very carefully, and he has only a limited number of persons in this country whom he can call to give him information concerning them. Of course, the importers keep their information to themselves, if it is favorable to the Government, and use it for their own advantage.

Senator PLATT, of Connecticut. Have you found in your experience that immediate-transportation goods for interior points are appraised at a different rate of value than what similar goods are appraised in the port of New York?

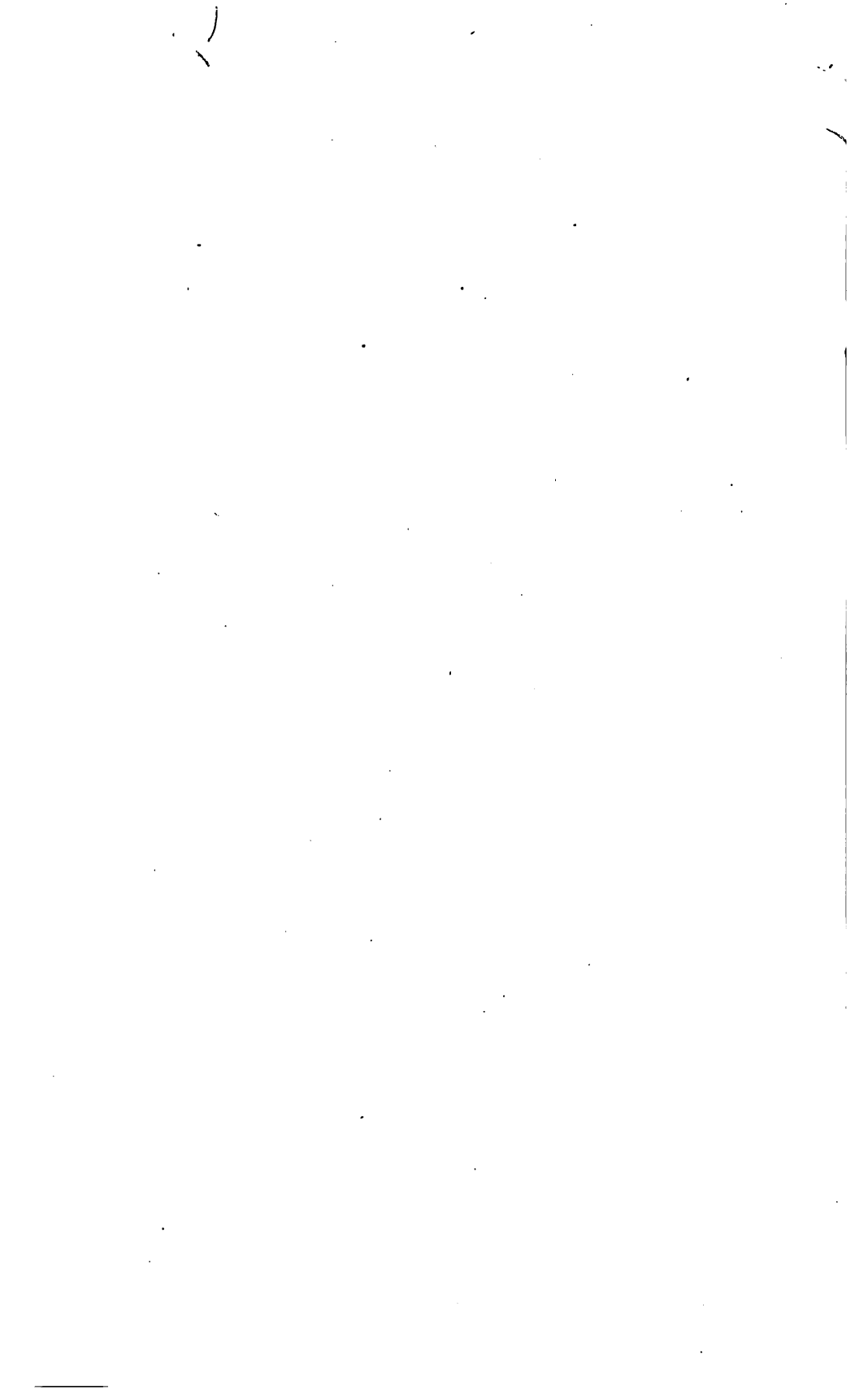
Mr. LUNT. I do not know of my own personal knowledge, but from gossip and surmise I have no doubt that goods are imported designedly by some people and transported inland to comparatively obscure ports, where the customs officers are not posted as to values, for the purpose of having them passed at a lower valuation than they would be passed at in such ports as New York, Boston, Philadelphia, or Baltimore.

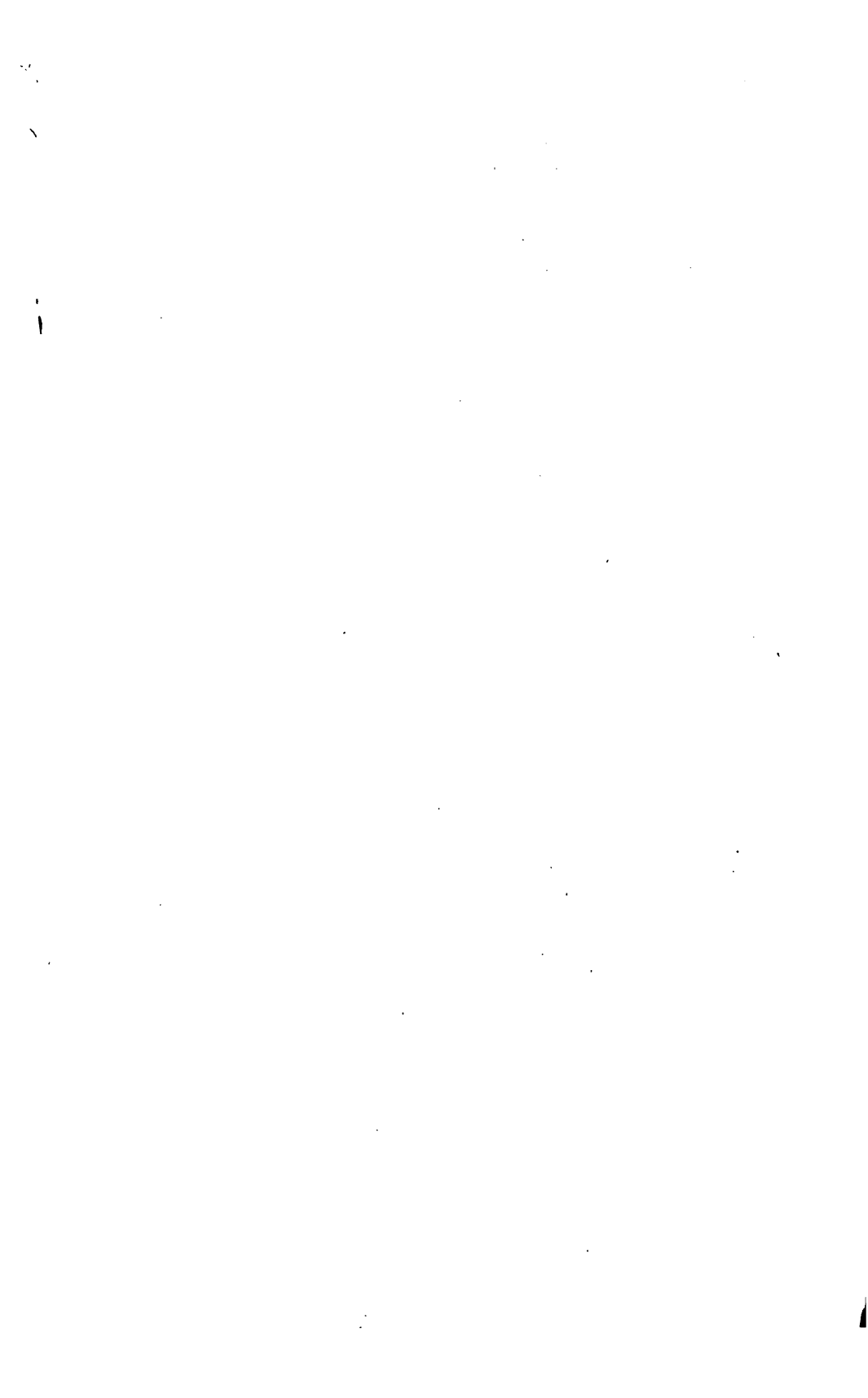
Senator PLATT, of Connecticut. Do you believe that is a wise provision of law?

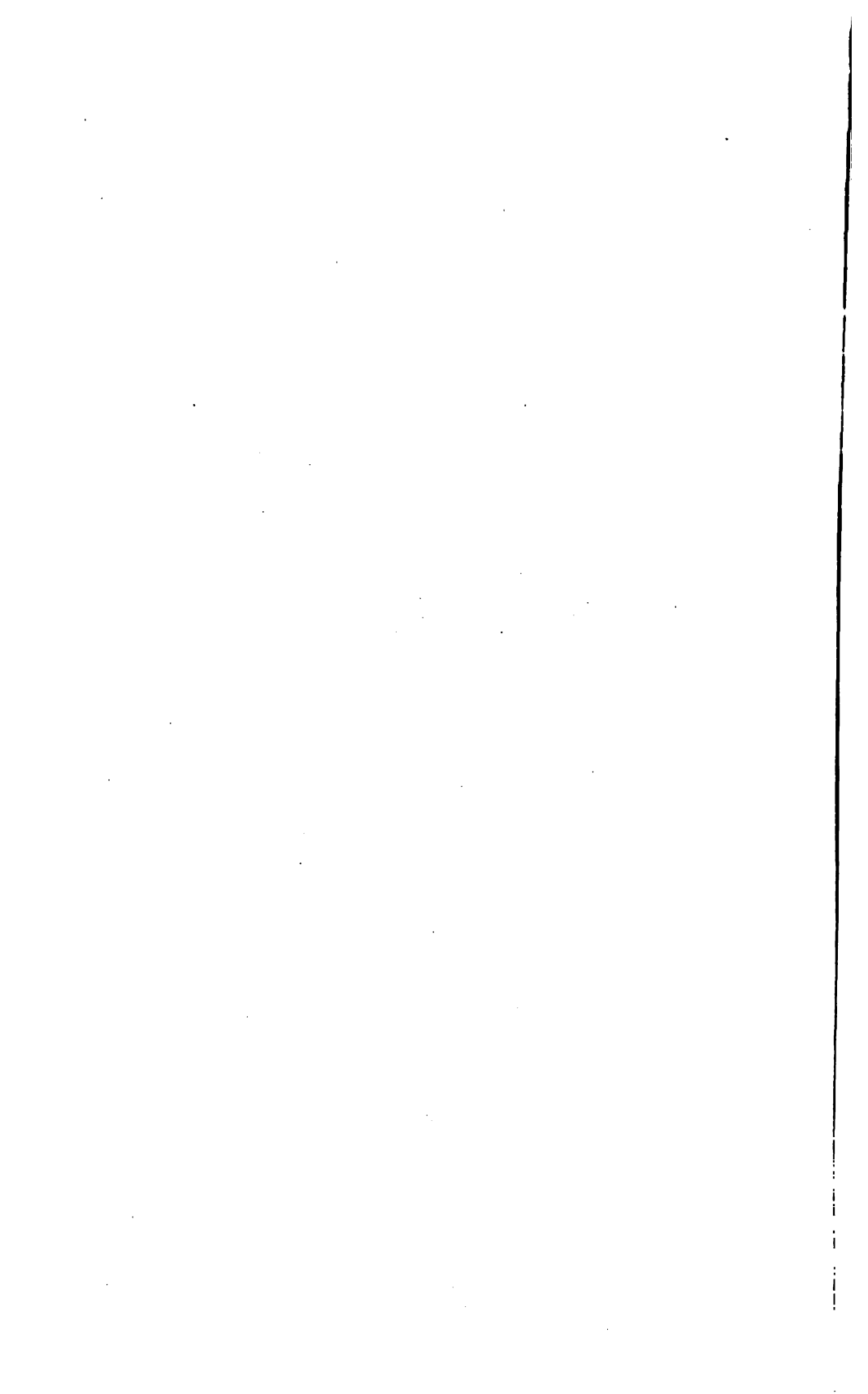
Mr. LUNT. I think the goods ought to be examined in the first port at which they arrive in the country, where there are expert officers. It might result in some inconvenience, but it would probably increase the revenues.

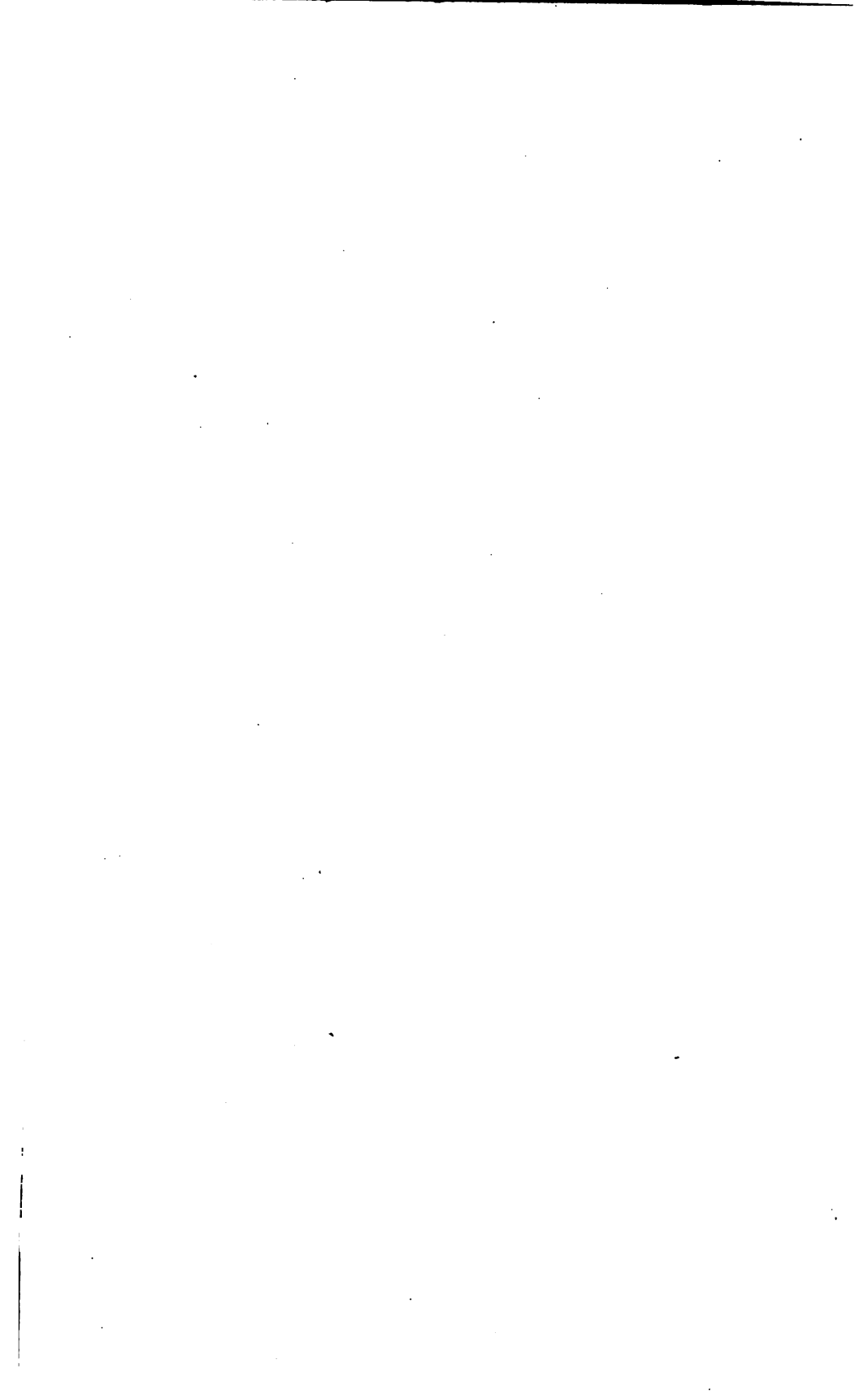
I wish there could be some way devised by which the decisions in the courts could be made uniform.

At 3 o'clock p. m. the subcommittee adjourned.











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